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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. 222.

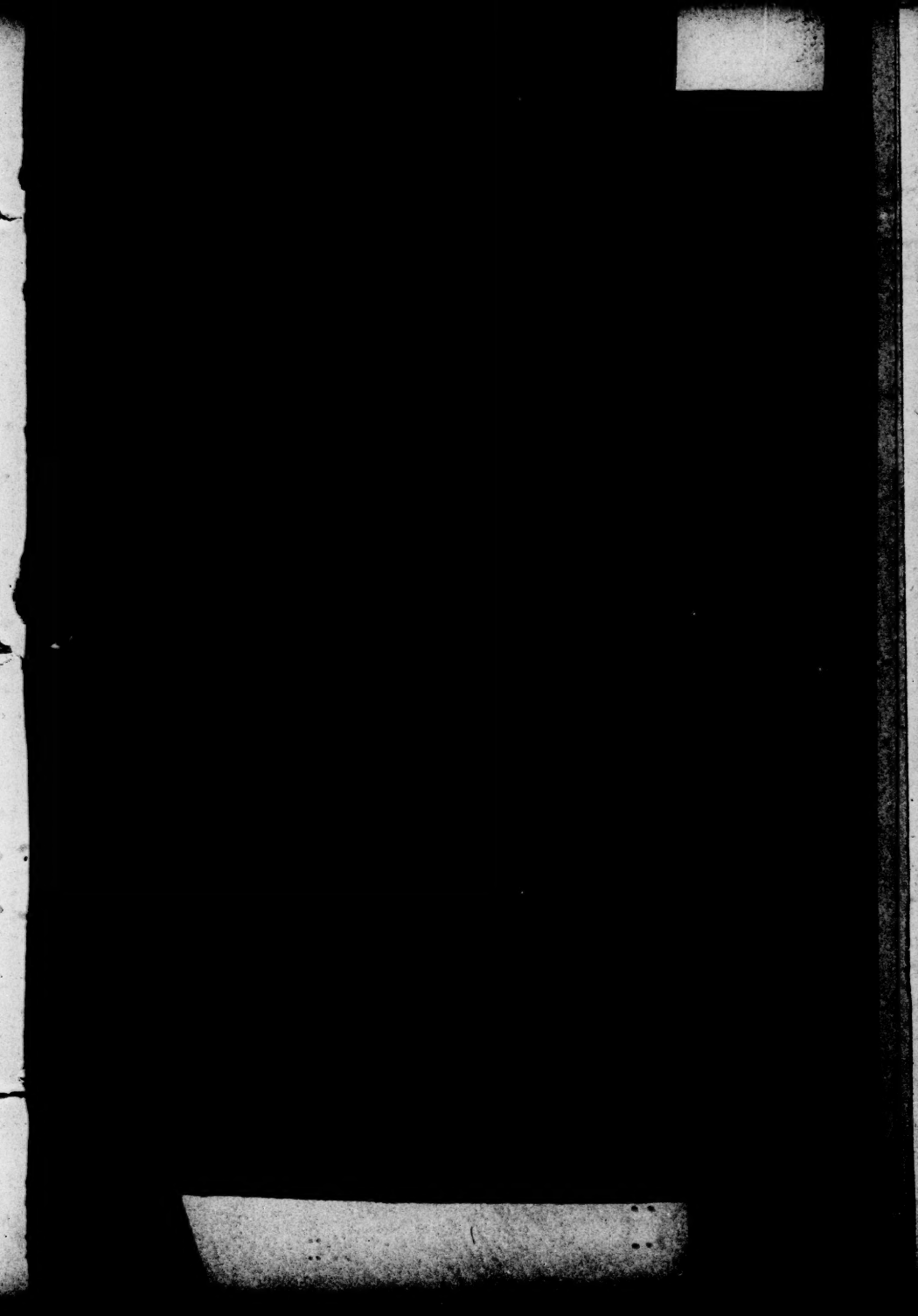
THE STEAMER POTOMAC, &c., JAMES W. BATCHELOR, ET AL, CLAIMANTS, APPELLANTS,

vs.

JOHN W. CANNON.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF LOUISIANA.

FILED AUGUST 1, 1879.



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a UNITED STATES OF AMERICA.

Circuit court of the United States, in & for the 5th circuit & district of Louisiana.

JOHN W. CANNON
vs.
STEAMER POTOMAC, ET ALS. } No. 8290.

J. Ad. Rozier, esq., for steamer Potomac et als, claimants, appellant.

Bentinck Eagan, esq., for John W. Cannon, libellant, appellee.

Transcript of appeal, returnable to the Supreme Court of the United States, on the second Monday of October, 1879.

1 U. S. district court, district and State of Louisiana, in admiralty.

JOHN W. CANNON
vs.
STEAMBOAT POTOMAC, AND J. N. SHUNK, master. } No. 9760.

R. H. Marr, Proctor for libellant; Given Campbell, Proctor for claimants. New Orleans Picayune steam print.

1½ U. S. district court, district and State of Louisiana, in admiralty.

JOHN W. CANNON
vs.
STEAMBOAT POTOMAC, AND J. N. SHUNK, master. } No 9760.

Libel.

To the honorable judge of the district court of the United States, in and for the district and State of Louisiana, holding sessions at the city of New Orleans:

John W. Cannon, of the city of New Orleans, exhibits this his libel, against the steamboat called the Potomac, of which J. N. Shunk is now or lately was master, her boats, tackle, apparel, and furniture, and against all persons intervening for their interest therein, and also against the said J. N. Shunk, master of said Potomac, in a cause of
2 collision, civil and maritime: And thereupon the said John W. Cannon doth allege and articulately propound as follows, to wit:

1st. That libellant is now, and was at the times and dates hereinafter mentioned, sole owner and master of the steamboat called the Robert E. Lee, of more than nine hundred tons burthen, of the port of New Orleans, in the district aforesaid, wherein said boat is now, and has been for several years past, continuously engaged in plying as a regular packet between the ports of New Orleans and Vicksburg, and intermediate places and landings on the Mississippi River.

2d. That on or about Tuesday, the 20th of December, 1870, the said

steamboat Robert E. Lee departed from New Orleans, having on board a valuable cargo and a number of passengers bound on a voyage to Vicksburg and intermediate landings and places, being provided with a proper complement of skilled and efficient officers, and a crew in all respects sufficient and suitable, and in all other respects fully equipped and manned for the said voyage.

3d. That the Robert E. Lee having so departed from the port of New Orleans on the day last mentioned, which was her regular day of departure, proceeded on her said voyage, nothing noteworthy having occurred until she arrived at Natchez, where she landed during the night of the 21st December, 1870, and remained about two hours discharging and receiving cargo, and left the wharf-boat on her voyage up the river

3 That the pilot of the Robert E. Lee, soon after leaving the wharf-boat, discovered the lights of a descending boat, which afterwards proved to be the Potomac. That said pilot was running up the Natchez side of the river; and when he perceived the lights of the descending boat, he gave the proper signal by blowing the whistle of the Robert E. Lee, which is a loud whistle. That no answer was made to this, and the engines of the Lee were stopped, and shipped up for backing. That the descending boat continued her course, almost across the river, heading towards the laboard side of the Lee, and thus she continued until the boats collided. That as soon after stopping the engines of the Lee as practicable, they were reversed, and the headway of the boat was checked, and she was receding at the moment of collision. That when the Potomac was a very short distance off from the Lee, she sounded her whistles, two blasts, indicating her intention to pass on the starboard side of the Lee, which she could have done only by crossing the bows of the Lee. That every effort was made by the Lee to avoid the collision; her engines were backed, and she was receding; but there was not time, after the danger became apparent, and after the course of the Potomac was ascertained, to get out of her way; and the Potomac came under such headway that she struck the Lee on the larboard side, a few feet aft of her stem, cutting through her timbers, and causing her to fill rapidly. Then, as soon as possible, the engines of the Lee stopped backing, and she went ahead, and worked over on to the

4 bar, on the side opposite Natchez, where she sunk in nine feet water, and remained in that condition, something over a mile above the wharf-boat at Natchez, and nearly opposite to the point on the Natchez side of the river near which the collision took place. That by great effort and great expense, bulkheads were built, the water was pumped out, and the Lee was raised and brought to New Orleans for repairs. That she was detained some two weeks, undergoing repairs rendered necessary by the collision, which repairs cost a large sum, and caused the loss of some three weeks, at the most profitable part of the season, causing loss and damage to libellant, which he estimates at twenty-five thousand dollars, and for which he seeks reparation in this suit.

4th. That the said collision was in no manner the fault of or attributable to the officers or crew of the Lee, but was caused solely by the fault and negligence, improper management and want of skill on the part of the officers and crew and of the master of the said steamboat Potomac; and that said boat is liable and the said master is answerable in personam to libellant for the said loss and damage.

5th. That all and singular the premises are true, and within the admiralty and maritime jurisdiction of this honorable court.

Wherefor libellant prays that process in due form of law issue against

the said steamboat Potomac, her boats, tackle, apparel, engines, and furniture, and against the said J. N. Shunk, the master of said steamboat, in personam. That this honorable court will pronounce
5 against the said steamboat Potomac, her boats, tackle, etc., for the damages aforesaid, and costs. That the said steamboat Potomac, her tackle, boats, etc., be condemned and sold in satisfaction thereof; and that this honorable court would also be pleased to pronounce against the said J. N. Shunk, the master of the Potomac, personally, for said damages and costs; and that the court will grant unto libellant all such other further and general relief in the premises as the facts will warrant, and as to right and justice may appertain; and as in duty, etc.

J. W. CANNON.

R. H. MARR, *Proctor for Libellant.*

Sworn to and subscribed before me, on this 3d day of July, 1871.

F. A. WOOLFLEY,
U. S. Commissioner.

Answer and cross-libel.

The claim and answer of Robert S. Semple, John Fink, and John N. Shunk, late owners of the steamboat Potomac, intervening for their interest therein to the libel of John W. Cannon, against the steamboat Potomac, her tackle, apparel, and furniture alleges and articulately propounds as follows:

First. The said respondents in answer to the first article of said libel, say that they have no personal knowledge except from the allegations in said libel that the said John W. Cannon was the sole
6 owner of the steamboat Robert E. Lee, at the time of the alleged collision, but they believe it to be true that he was the owner in whole or in part of said steamboat, and that she was then and for several years previously had been engaged in running as a regular packet between New Orleans and Vicksburg and intermediate places and landings on the Mississippi River.

Second. In answer to the second article of said libel, the said respondents admit that at about the time stated in the libel, the said steamboat Robert E. Lee, departed from New Orleans bound on a voyage for Vicksburg and intermediate landings, but whether she had on board or not a large number of passengers, or valuable cargo, or whether she was provided with a complement of skilled and efficient officers and crew, or whether she was in all respects fully manned and equipped for said voyage, these respondents are unable to say, and therefore, deny the same and require proof thereof.

Third. In answer to the third article of said libel, these respondents admits that the said steamboat, Robert E. Lee, left New Orleans and arrived at Natchez, and that she left the wharf-boat at Natchez on her said voyage up the river as therein alleged.

The respondent say that the steamboat Potomac was in full sight of the pilot of the Robert E. Lee, soon after the last-named boat left the wharf-boat at Natchez, and might easily have been
7 seen by him. They deny that the pilot of the Lee, after he left the said wharf-boat, was running up the Natchez side of the river. They deny that the Natchez side of the river was the usual and proper place for an ascending boat. They deny that the pilot of

the Robert E. Lee gave any signal by blowing the whistle of the Robert E. Lee when he perceived the lights of the ascending boat. They deny that he blew any signal whatever. They deny that the engines of the Robert E. Lee were stopped and shipped up for backing until nearly or quite at the time of the collision. They deny that the Potomac continued her course almost across the river, or that she headed towards the larboard side of the Robert E. Lee, or that she thus continued headed until the boats collided. On the contrary, for some time previously the steamboat Potomac was descending the Mississippi River on the Natchez side of the river, shaping the shore in the usual course of a descending boat, and so continued until she was within from seven to eight hundred yards of the steamboat Robert E. Lee, when the pilot on watch on the steamboat Potomac, not hearing any signal from the steamboat Robert E. Lee, gave his signal—two distinct blasts—indicating that he would go to the larboard, and immediately rang his bells to stop, and then to back his boat; that the steamboat Robert E. Lee, without replying to the signal of the Potomac, or without giving any signal at all, so changed her course that she came with great force across the current and struck the Potomac on the starboard side about six feet from the stem.

8 These respondents deny that the heading of the steamboat Robert E. Lee was checked before the collision. They say that when the pilot of the Potomac sounded the two blasts the two boats were seven or eight hundred yards apart, and the said signal indicated that she was to continue in her course down the Natchez side of the river. They deny that every effort was made on the Lee to avoid the collision, or that her engines were backing, or that the Potomac was under great headway at the time of the collision. They admit that a collision took place, and that both boats were considerably injured and detained thereby. They deny that the Lee was detained three weeks by reason of said collision, or that the same time was the most profitable part of the season, or that the libellant has sustained damages amounting to twenty-five thousand dollars.

Fourth. In answer to the fourth article of said libel, said respondents deny that the said collision was caused by the negligence, improper management, or want of skill on the part of the officers and crew of the Potomac. They deny that the said boat is liable, or that the said master is answerable in personam for said loss and damage, but they say that said collision and damages are attributable to the negligence and want of skill of the officers and crew of the steamboat R. E. Lee.

Fifth. And the said Robert S. Semple, John Fink, and John N. Shunk, late owners of the steamboat Potomac, for a cross-libel against the said John W. Cannon, the libellant in said libel named,

9 the owner of the steamboat R. E. Lee, her tackle, apparel, and furniture, allege and articulately propound as follows:

That on the 21st day of December, A. D. 1870, the said respondents were the owners of the steamboat Potomac, a steamboat of five hundred tons burden, duly licensed and enrolled and engaged in commerce among the several States; that on the said day last named the said steamboat, on a trip from Cincinnati to New Orleans, laden with freight and passengers, at about twelve o'clock at night, was passing down in the usual course of a descending steamboat, about sixty yards from the eastern shore of said river and shaping the bend of the same, and had come within two miles of Natchez, when the pilot on watch on said steamboat discovered an ascending steamboat, which afterwards proved to be the R. E. Lee, which boat having started out from the Natchez wharf-boat

towards the western shore of the river, had turned and was then coming towards the Potomac; that the pilot of said steamboat Lee gave no signal to indicate which side of the Potomac he would pass, and thereupon when the two boats were within seven or eight hundred yards of each other, the pilot of the Potomac gave the signal for the larboard by blowing two loud distinct blasts, and as the Lee seemed coming towards the Potomac, the said pilot immediately rung his bells to stop and back his boat, and the boat was backing at the time of the collision; that the steamboat R. E. Lee, without any signal from the pilot, crossed the current from the middle or western side of the
10 river, and came quartering against the starboard bow of the Potomac, and striking with the larboard side of the hull, the starboard guard of the Potomac about eight feet from the stem, and knocking the stem loose, which caused her to take water rapidly and to be in imminent danger of sinking; that at the time aforesaid the said steamboat Potomac was duly manned and equipped with a full complement of officers and crew, who were in their proper places on duty; that the said steamboat R. E. Lee was not in the usual and proper place for an ascending steamboat; that by reason of said collision the said steamboat Potomac, was greatly damaged and delayed for a long time, and was also compelled to pay large sums of money by way of general average, amounting in all to eight thousand dollars; that the said collision herein named is the same referred to in the said libel; that the same, with all damage and loss, was caused solely by the negligence, inattention, and want of skill of the steamboat R. E. Lee and her officers and crew.

Sixth. That all and singular the matters are true and within the admiralty and maritime jurisdiction of the court.

Whereupon these respondents pray that the said original libel may be dismissed at the costs of the libellant, and that process in due form of law, according to the course of this honorable court in causes of admiralty and maritime jurisdiction, may issue against the said John W. Cannon on respondents' cross-libel, that he may be compelled to
11 answer the matters aforesaid, and that he may be condemned to pay to the said respondents the said damages, interest, and costs, and also that the said John W. Cannon be required to give security in the usual amount and form, to respond in damages claimed in said cross-libel, and that these respondents may have such other and further relief as they are entitled to receive.

ROBERT S. SEMPLE.

GIVEN CAMPBELL, *Proctor.*

UNITED STATES OF AMERICA,
Southern District of Ohio, City of Cincinnati, ss:

Robert S. Semple, one of the claimants above named, being first duly sworn, says, he has read the above and foregoing claim and answer, and that he believes the statements of said claim and answer to be true in substance and in fact.

ROBERT S. SEMPLE.

Sworn to before me and signed in my presence by said Robert S. Semple this first day of January, 1872.

REUBEN TYLER,
U. S. Commissioner, Southern District of Ohio.

Answer to cross-libel.

Now comes John W. Cannon, of the city of New Orleans, master and sole owner of the steamboat Robert E. Lee, and for answer to the

cross-libel of Robert S. Semple and others, claimants of the
12 steamboat Potomac, herein filed and exhibited against him, alleges and articulately propounds as follows, to wit:

1st. That the fifth article of the answer of claimants, which is the first article of their cross-libel, is not true, for the truth is and was, and respondent doth so allege and propound:

That the collision between the steamboats Potomac and Robert E. Lee occured in the manner and under the circumstances detailed in the original libel; that a correct history of the said collision is given in the said original libel, and respondent here refers to and repeats the allegations of the third and fourth articles of said original libel, and prays that the same may be taken as his answer in part to the said first article of the cross-libel.

And further answering to the said first article of the cross libel, respondent doth allege and propound:

That when the Lee departed from the wharf-boat at Natchez, she headed up the river, keeping up the eastern or Natchez side of the river, and thus proceeded on her voyage; and that she did not at any time cross over to or hold for the western or bar side of the river, or alter her course after getting out from the wharf-boat.

That when the pilot of the Lee first perceived the lights of the Potomac, the Potomac was apparently heading down stream, holding well out from the bend side, and she seemed to be keeping that course at the time the signal was given by the Lee.

13 That when the boats were within proper distance, the pilot of the Lee gave the signal, one blast of his whistle, to indicate to the descending boat that he was keeping up the eastern, right-hand shore. That if this signal had been properly responded to and the Potomac had been managed in accordance with the signals, the boats would have passed each other at a considerable distance, and in entire safety; that the pilot of the Lee heard no answer to his signal; and, shortly after giving the signal, he stopped both engines and shipped up for backing; that as soon as possible the engines of the Lee were backed; that about the time the engines of the Lee commenced backing, the Potomac seemed to have changed her course and was coming towards the larboard side of the Lee, heading almost across the river, and as if swinging round; that the engines of the Lee backed promptly and strong, and she was receding, had sternway at the time the collision occurred; that the headway of the Potomac was not checked, because she came into the Lee with great force, cutting through the timbers of the Lee and causing her to fill rapidly; and the Lee was saved from total loss only by running her over on to the bar, where she sunk in nine feet water.

That the Lee was in her proper place; and the boats were far enough apart when the signal of the Lee was given for the collision to have been avoided if the Potomac had only have answered properly
14 and steered accordingly, or had stopped her engines and allowed the Lee to get out of her way.

That respondent has no knowledge of the manner in which the Potomac was manned and equipped, nor of the extent of the damage sustained by the Potomac; wherefore, neither confessing nor denying those things of which he is ignorant, respondent will insist upon full proof of the manner in which she was manned and equipped, and of the nature and extent of the damage caused to the Potomac by the collision.

That respondent understands the injury to the Potomac was slight, not sufficient to prevent her prosecuting her voyage to New Orleans

immediately and safely. But respondent specially denies that the said collision, or any loss or damage which may have been thereby caused to the Potomac, was caused by any negligence or inattention or want of skill on the part of the Lee, or of her officers or crew; and he alleges and propounds that the said collision, and any loss or damage which may have resulted from the same, were caused by the fault of the Potomac and of her officers and crew.

2d. That the 6th article of the said answer, which is the second article of the said cross-libel, is not true.

3d. That as to the several articles of the answer of claimants, which do not purport to be part of, and which precede the said cross-libel, the same are not true, for the truth is and was, as is alleged and propounded in the several articles of the original libel and in this answer.

15 4th. That all and singular the premises are true.

Wherefore, respondent prays that this honorable court would be pleased to pronounce against the said cross-libel; to condemn the cross-libellants in costs; to decree in favor of respondent, as prayed for in the original libel; and otherwise right and justice to administer in the premises; and as in duty, etc.

J. W. CANNON.

R. H. MARR, *Proctor.*
NEW ORLEANS, *4th March*, 1872.

Sworn to and subscribed before me, this 5th March, 1872.
K. LOEW, *U. S. C.*

Amendment to the answer and cross-libel.

Now come the respondents and by leave of court first had and obtained, file this by way of amendment to their former answer and cross-libel, and thereupon they do answer and say as follows, to wit:

First. So much of the third article of said answer and cross-libel as reads: "And so continued until she was within from seven to eight hundred yards of the steamboat Robert E. Lee, when the pilot on watch on the steamboat Potomac not hearing any signal from the steamboat Lee, gave his signal, two distinct blasts, indicating that he would go to the larboard and immediately rang his bells to stop,

16 and then to back his boat," they do amend so that it shall read as follows: "And so continued until she was coming to the distance of eight hundred yards from the steamboat Robert E. Lee, and when at that distance from the Lee, the pilot on watch of the steamboat Potomac not hearing any signals from the steamboat Lee, caused the engines of the Potomac to be stopped when at that distance from said boat, and very soon thereafter and when the boats were between seven and eight hundred yards apart, blew two distinct blasts of the Potomac's whistle, indicating that she would go to the larboard, and immediately thereafter rang his bells to get ready to back the engines, and then at once pulled the bell-ropes to back the engines, and the starboard engine was immediately backed and continued to back up to the time of collision, and the respondents further allege that said engines were not started ahead after they were stopped as aforesaid until after the collision."

Second. And the said respondents do also amend the fifth article of their answer and cross-libel, so as that the following part thereof, to wit: "When the two boats were within seven or eight hundred yards of each other, the pilot of the Potomac gave the signal for the larboard by blowing two loud distinct blasts, and as the Robert E. Lee still

seemed coming towards the Potomac, said pilot immediately rang his bells to stop and back said boat, and his boat was backing at the time of the collision," so that the same shall read as follows: "That when the Potomac was approaching a point distant eight hundred yards
17 from the Lee, and when at that distance above the Lee, her pilot caused both engines to be stopped, and immediately thereafter and when the boats were from seven to eight hundred yards apart, the pilot blew two loud distinct blasts of his whistle as a signal that he should go to the larboard, and then immediately rang his bells to get ready for backing, and as the Lee still seemed coming towards the Potomac, quartering across from the starboard, the pilot immediately pulled his bell-ropes to back the engine, and the starboard engine was immediately backed and continued to back until the collision; and the respondents aver that after the said engines were stopped as aforesaid they were not started forward again until after the collision.

And the respondents aver that the answer and cross-libel to which this is an amendment, was drawn up under the instructions of Mr. Robert S. Semple, who was not on the boat at the time of the collision, and in the absence of Captain Shunk and the pilot and engineer on watch, and that he was not aware of the partial inaccuracy of the statement contained therein until after the pilot on watch and the engineer on watch, had given their testimony in the cause, and the respondents, therefore, take this the first opportunity to correct the said inaccuracy.

Third. And for a further amendment, the respondents say that at the time of the said collision, the said steamboat Robert E. Lee was insured by sundry policies of insurance, issued at Cincinnati, Ohio, in
18 the amount of $50,000—the boat being valued in the policies at the rate of $75,000—as follows, to wit: in

The Eureka Fire & Marine Ins. Company	$5,000
The Union Insurance Company	3,500
The Enterprise Insurance Company	5,000
The National Insurance Company	3,000
The Fireman's Insurance Company	3,000
The Western Insurance Company	5,000
The Commercial Insurance Company	5,000
The Crescent Insurance Company	2,500
The Burnet Insurance Company	2,500
The American Insurance Company	5,000
The Globe Insurance Company	5,000
The Farmers' Insurance Company	2,500
The Ohio Valley Insurance Company	3,000

Respondents further aver that after the loss, John W. Cannon, the libellant, came to this city, to wit, the city of Cincinnati, and caused the injury to his boat and the amount payable by each of said companies to be ascertained, and the said companies did recognize his loss under the said policies and pay the same to him in amounts as follows, to wit:

The Eureka Insurance Company	$742 95	
The Union Insurance Company	520 00	
The Enterprise Insurance Company	742 95	
The National Insurance Company	445 80	
The Fireman's Insurance Company	445 80	
The Western Insurance Company	742 95	
The Commercial Insurance Company	742 95	
The Crescent Insurance Company	371 47	
The Burnet Insurance Company	372 47	5,126 34

19	The American Insurance Company.....	$742 95	5,126 34
	The Globe Insurance Company.....	742 95	
	The Farmers' Insurance Company.....	371 47	
	The Ohio Valley Insurance Company.....	445 80	
			2,303 17
			7,429 51

That the said insurance was against marine risks and fire, under which the one hereto attached, marked A, is a copy, excepting only that the number of the vessel, the number of the proposition, the name of the company and the names of the several officers subscribing the policy differ, each company having its own officers, its own name, number of vessel, and number of proposition; that by virtue of said policies upon payment of said sums of money aforesaid, the several companies became subrogated to the right to prosecute with the libellant any party causing the injury or damage to the extent of the amount so paid by them, if said damage was caused by any third person; that the said several insurance companies were bound to pay said loss to the said Cannon, whether the same was caused by the carelessness or neglect of some third person, by unavoidable accident or by the neglect or want of care of the said Cannon or those in his employ; that before the said Cannon brought suit against said steamer Potomac, he should have consulted the said insurance companies; that he has no legal right to sue for their interests nor to recover the amount so paid by them, except by their consent.

And the respondents further aver that the said Cannon never did consult the said insurance companies; that they have never authorized him to file the said libel, nor have they ever consented that
20 the said libel should be filed, so far as their interests are concerned, and the fact is, as respondents aver, that they do not desire the same prosecuted against the said steamer Potomac, nor against her owners, nor against Captain Shunk, nor either of them, and have on the contrary, each for itself, released, discharged, and set over to the owners of the steamboat Potomac and the said Shunk, any and all right which they have in and to any damage or claim of damage, if any there was, whether legal or equitable, growing out of the said collision, and did authorize them to use the same by way of defence or otherwise in and to this libel; and the respondents aver that while protesting that they were guilty of no want of care or skill in bringing about said collision, and are in no way responsible therefor, yet, nevertheless, if this court shall find and hold otherwise, they are entitled to have deducted from the damages which the said Robert E. Lee has suffered, and for which the courts shall hold them responsible, the said several sums so as aforesaid paid by said insurance companies to the said John W. Cannon, amounting in all to the sum of seven thousand four hundred and twenty-nine dollars and fifty-one cents (7,429.51).

GIVEN CAMPBELL,
Proctor.

UNITED STATES OF AMERICA,
Southern District of Ohio, City of Cincinnati, ss:

Robert S. Semple, one of the claimants above named, being
21 first duly sworn, says he has read the above and foregoing claim and answer, and that he believes the statements of said claim and answer to be true in substance and in fact.

ROBERT S. SEMPLE.

Sworn to before me and signed in my presence, by said Robert S. Semple, this 19th day of October, 1872; and I do certify that I am authorized by the laws of Ohio to administer oaths in all cases. In testimony whereof I have hereunto set my hand and notarial seal the day and year aforesaid.

E. T. FRIES,
Not'y Pub., Hamilton Co., Ohio.

7,429 51
3

$22,288 53

22 (Copy.)

A.

UNION INSURANCE CO., OF CINCINNATI, OHIO.

No. 1174. Vessel, R. E. Lee. Proposition, No. 17520. Valuation, $75,000. Sum insured, $3,500. Premium, $350. On account of present owners. Loss, if any, payable to the assured.

This policy of insurance witnesseth that the Western Insurance Company of Cincinnati, by these presents, do cause John W. Cannon to be insured in the sum of not exceeding thirty-five hundred dollars, lost or not lost, upon the steamboat Rob't E. Lee, wherever she is in safety at noon of the 31st day of October, 1870, and from thence to noon of the 31st day of October, 1871, when this policy shall expire, unless sooner terminated or made void by conditions hereinafter expressed.

With permission to navigate the Ohio & Mississippi Rivers & tributaries, except Missouri, Arkansas & Red Rivers.

Underwriter's obligations.

This company, having been paid the consideration for this insurance, at the rate of ten per cent., for the term of this policy, the said steamboat R. E. Lee, hereby insured, being valued at seventy-five thousand dollars.

Touching the perils, which the said insurance company is content to bear, and take upon it, under this policy, they are of the seas, lakes, rivers, canals, fires, and jettisons that shall come to the damage of said vessel, or any part thereof. And, in case of loss, such loss to be paid in sixty days after proof thereof, proof of interest and adjustment exhibited to the assurers, all sums owing by the assured to the company, being first deducted, or secured to the satisfaction of the assurers, before such loss shall be paid. But no loss, by special average, shall, in any case, be paid, unless the necessary repairs required solely by the disaster (exclusive of the cost of taking the vessel on the docks or hauling her out on marine ways, the cost of dock or railway fees while being repaired, and the cost of ascertaining and proving the loss, shall amount to five per cent. on the value of said vessel as specified in this policy.

This policy shall become void if any further insurance has been or shall be made on said vessel, which, together with this insurance shall exceed the sum of five thousand dollars, or upon any assignment of this policy, or charter of said vessel, unless notice

is given to this company, and the same be approved and indorsed hereon, in writing by the company; also during any time said vessel shall carry hemp on deck, unless the same be covered by bagging, or unslacked lime in the hold, or cotton on the hurricane deck; and also in case the note or other obligation given for the premium herefor, be not paid within fifteen days after maturity and demand and remain void during the time the same shall be overdue and unpaid. It is also agreed that the insurance, by this policy, shall cease during the time said vessel shall be taken and held in possession or custody, under any proceedings in law or equity, except during the first five days after seizure. No assignment or transfer hereof shall, in any case, relieve the insured or property hereby insured, from any or all of the conditions expressed in this policy; and a violation or non-compliance with any of such conditions, either by the assignee or assignor, before or after the assignment, shall vitiate this policy.

Obligations of the assured.

Warranted by the assured that this company shall be free from all claim for loss or damage arising from or caused by theft, barratry, robbery, civil commotion, war or piracy, or during any time said vessel shall be seized and taken possession of or detained by any act of the United States Government, or other legally excluded causes; from damage that may be done by the vessel hereby insured to any other vessel or property; from any loss or damage occasioned by said vessel being improperly laden, by the bursting of boilers, the collapsing of flues, explosion of gunpower, the derangement or breaking of the engine or machinery, or any consequence resulting therefrom, unless the same be caused by unavoidable external violence; from any loss or damage occasioned by ice, between Bissell's Point and Picotte street, in the port of St. Louis, Mo.; from loss or damage occasioned by the use on board of coal oil or spirit gas in any form; from any consequences of said vessel having been engaged in an illicit or prohibited trade at any time whatever; and from any loss caused by the use of an open light of any kind in the hold; that there shall be no abandonment, as for a total loss, on account of said vessel grounding or being otherwise detained, or in consequence of any loss or damage unless the injury sustained be equivalent to fifty per centum of the agreed value in this policy; that the aforesaid vessel is and shall be at all times during the continuance of this policy, tight, and sound, sufficiently found in tackle, and appurtenances thereto, competently provided with master, officers, and crew, and in all other things and means necessary for the safe employment thereof; and that said vessel shall be run and navigated upon the aforesaid privileged waters, as is usual for boats of her class, in the usual prosecution of business; and that this policy shall be null and void, while said vessel shall be unseaworthy, or condemned as unseaworthy, except while proceeding to a port for repairs, and during the time of such repairs; that in the night time said vessel shall show in a conspicuous place one or more lights, so as to warn and give notice to boats and approaching vessels; and that, while in port or laid up, at least two competent watchmen shall be employed, one of whom shall be on duty at all times; that in all cases of loss or damage the assured shall furnish to said company proofs of the same within thirty days from the date thereof; and all claims under this policy shall be barred, unless prosecuted within one year from the same date; and no loss

shall be paid unless the assured shall give immediate notice in case of accident or loss to the company; and that the liability of this company for all losses during the continuance of this policy, shall not in the aggregate exceed the sum hereby insured.

In case of any loss or misfortune, resulting from any peril insured against, the party insured shall use every effort for the safeguard and recovery of said vessel, and if recovered to cause the same to be forthwith repaired; and in case of neglect or refusal on the part of the assured, his agents or assigns, to adopt prompt and efficient measures for the safeguard and recovery of said vessel, then the said insurers are hereby authorized to interpose and recover said vessel and cause the same to be repaired for account of the insured, to the charges of which the said insurance company will contribute, in proportion as the sum herein insured bears to the agreed value in this policy; but in no case whatever shall the assured have the right to abandon, until it shall be ascertained that the recovery and repairs of said vessel are impracticable, nor sell the wreck or any portion thereof without the consent of this company; and the acts of the assured or assurers or of their joint or respective agents, in preserving, securing, or saving the property insured, in case of danger or disaster, shall not be considered or held to be a waiver or acceptance of an abandonment. In case of accident rendering repairs necessary, the master or owner shall cause the said vessel to be surveyed by a competent inspector, who shall, under oath, note particularly the damage sustained, and the repairs required thereby; all claims for repairs shall be accompanied by the vouchers, and by the oath or affirmation of the master that such expenses were actually incurred and made necessary by the accident which may have happened to said vessel.

Adjustment of losses.

No deduction will be made from claims for repairs to the hull or machinery of said vessel, during the first two years from the date of her original custom-house survey; but from all claims for repairs to the cabin, or tackle, or apparel, or furniture, or for replacing the same, the assured shall deduct one-third, that being the agreed difference in value between new and old materials, and the same deductions shall be made from claims for repairs to the hull and machinery after the first two years as aforesaid.

No allowance will be made for wages or provisions paid or furnished to officers or crew, while the vessel is detained by any accident, or while undergoing any repairs, except for the time they are actually employed for the safety of the vessel and cargo, for which they will be included in the general average account. Whenever this company shall pay any loss the assured agrees to assign over to said company all right to recover satisfaction therefor from any other person or persons, town, or other corporation or the United States Government, or to prosecute therefor at the charge, and for account of the company, if requested. And the said company shall be entitled to such proportion of said damages recovered as the amount insured by them bears to the valuation of said vessel.

In case of return premium, at the request of the assured, a deduction shall only be made on the whole months of unexpired time; the earned time to be charged for at short rates.

In witness whereof the Western Insurance Company of Cincinnati

have caused these presents to be signed by their president, and attested by their secretary, at their office in the city of Cincinnati, State of Ohio, this 9th day of September, 1872.

W. M. RICHARDSON, *President.*

AB'M C. EDWARDS, *Secretary.*

For value received hereby transfer, assign, and set over unto and assigns, all right, title, and interest in this policy of insurance, and all benefit and advantage to be derived therefrom, subject to the deduction therefrom of all claims due this company, at this date, by the assignor, and thereafter by the acceptor.

Witness hand and seal this day of , .

[SEAL.]

Sealed and delivered in presence of—

Approved.

Secretary.

For value received hereby transfer, assign, and set over unto , and assigns, all right, title, and interest in this policy of insurance, and all benefit and advantage to be derived therefrom, subject to the deduction therefrom of all claims due this company, at this date, by the assignor, and thereafter by the acceptor.

Witness hand and seal this day of , .

[SEAL.]

Sealed and delivered in presence of—

Approved.

Secretary.

For value received hereby transfer, assign, and set over unto , and assigns all right, title, and interest in this policy of insurance, and all benefit and advantage to be derived therefrom, subject to the deduction therefrom of all claims due this company, at this date, by the assignor, and thereafter by the acceptor.

Witness hand and seal this day of , .

[SEAL.]

Sealed and delivered in presence of—

Approved.

Secretary.

(Indorsed:) Vessel, R. E. Lee. No. 1174. Union Insurance Company of Cincinnati, Ohio, to John W. Cannon. Valuation, $75,000; limit, $50,000; $3,500, @ 10 %, $350.00. Expires, October 31, 1871. Miami Printing and Publishing Co., corner Bedinger street and Miami Canal, Cincinnati, O.

23 *Libellant's testimony.*

Testimony taken by consent, New Orleans, March 15, 1872. Present, R. H. Marr, esq., for libellant; Given Campbell, esq., for defendant.

CHAS. T. PEIRCE, sworn for libellant, says:

Question. What is your profession?

Answer. Pilot.

Q. In what trade have you been employed, and how long?

A. Vicksburg and Bend trade, for the last twenty odd years.

Q. Were you on board the Lee in any capacity at the time of the collision with the Potomac?

A. Yes, sir.

Q. Tell us how that happened, and all about it. The Lee was going up the river?

A. Yes, sir.

Q. She had just left Natchez?

A. Yes, sir.

Q. All was unimportant up to that time?

A. Yes, sir.

Q. State how you navigated your boat when you left Natchez, etc.

A. I left the wharf-boat, I think it was about five minutes to twelve o'clock.

Q. At night?

A. Yes.

Q. Which way did you run?

A. I steered right up the Natchez shore from the wharf-boat, nearest the Natchez shore.

24 Q. Go on and state just how the thing happened.

A. After I left the wharf-boat about two or three minutes, I noticed a boat coming down. I blew one whistle for to take the starboard side. It was not answered. I then went on for a minute or two, and I stopped her. After I stopped her, I suppose in about a minute, I checked her up and commenced backing her. Still the Potomac hadn't answered my whistle. I stopped her and commenced backing her, as I told you; the Potomac apparently commenced rounding right to into us, like she was rounding to *to* land against a wharf-boat. She rounded right into us; for we were going right up the right hand shore, the Natchez shore; the Potomac rounded right into us. This was about, I judge, three-quarters of a mile above the wharf-boat.

Q. In what position was your boat with reference to the saw-mill—Brown's saw-mill?

A. I think she was about two or three hundred yards below Brown's saw-mill—two or three lengths of the boat—when the boat came into us.

Q. How far out in the river were you holding at the time the collision occurred?

A. I was about one-third of the way out. I left about two-thirds to the left, and one-third to the right.

Q. There was about one-third of the river on the Natchez side of you?

A. Yes, sir; and two-thirds on the other side.

Q. How did she come into you?

A. She come right in as I told you; she rounded to apparently, like she was rounding to land, and rounded right into us. When she
25 met us her stem was a little down stream, if anything on the Vidalia shore, and come right into us.

Q. Did you hear any whistle from the other boat?

A. Yes. She blew her whistle about fifty yards off, not more than across the street from here, just before she struck us.

Q. What whistles did she blow?

A. Two whistles.

Q. Did you notice her sufficiently to see whether her engines were in motion at the time she blew those whistles?

A. No, sir; I couldn't tell.

Q. Do you know whether her engines were moving either way when she struck you?

A. No, sir; I can't tell you.

Q. What sort of a blow did she give?

A. Two short whistles, very quick.

Q. I mean what sort of blow did she strike the Lee—whereabouts?

A. About ten or fifteen feet from the bow, on the larboard side of the Lee.

Q. What part of the Potomac struck the Lee?

A. The bow—the stem.

Q. Did you see whether the "jack-staff" fell, when she struck the Lee?

A. No, sir.

Q. At what rate do you think you were going up the river? Did you stop your engine?

A. I don't think we were going over eight miles an hour; we were not running very fast when we left the wharf-boat.

26 Q. How do you have to run generally to get under headway with the Lee, going out?

A. We were not running much when we left.

Q. You knew from the motion of your boat what speed you were making?

A. I judge she was making over eight or ten miles an hour.

Q. Going at that rate of speed, how many revolutions of your engine would it take to check up?

A. About four or five.

Q. How does the Lee back?

A. Very well.

Q. What sort of whistle is yours?

A. It is a good whistle; as good as there is on any boat.

Q. Did you blow it loud and distinct?

A. Yes, sir.

Q. At what distance do you think it ought to have been heard?

A. That whistle ought to have been heard three-quarters of a mile, or a mile.

Q. How far do you think the Potomac was from you when you blew your whistle?

A. I judge she was six or eight hundred yards, something like that when I blew my whistle.

Q. Where was she when you first saw her?

A. When I first saw her, when I first noticed her, I think she was about, I judge ——

Q. I mean in what part of the river?

A. Up above Brown's saw-mill coming down, when I first noticed her.

Q. Which side of the river was she on?

27 A. She was out, that is the right hand side coming down, out towards the bar. The channel goes out towards the bar. After you get above Brown's saw-mill, you stand out off the Natchez shore for the channel.

Q. What sort of signal lights had the Lee?

A. She had a red one and a green one.

Q. Are the chimneys of the Lee tall, or what?

A. Yes, they are tall.

Q. How far do you think her signal lights could have been seen by the Potomac?

A. They ought to have been seen. I judge you could see them a mile.

Q. Do you recollect what sort of night it was?

A. Yes, sir; it was not a "star light" night, but it was not a bad night at all; it was not a dark night, not what we call a bad night at all.

Q. Do you think that the Potomac could have seen your lights as soon as you see hers?

A. Yes, sir.

Q. At the time you gave these signals had the Potomac time to have allowed you to pass upon the starboard?

A. Yes, sir.

Q. At any time previous to the collision was the Potomac between you and the Natchez shore?

A. No, sir.

Q. Nearer to the Natchez shore than you were?

A. No, sir.

Q. At any time after leaving the wharf-boat at Natchez did you cross over to the western side?

A. No, sir; I kept right up the right-hand shore.

Q. What is the usual course of ascending boats after leaving
28 the wharf-boat at Natchez at that stage of the water—what course does she usually take?

A. She usually goes right up the right-hand shore, after leaving the wharf-boat, until she gets up to Brown's mill, or right above Brown's mill. There are some lumps there that you have to stand around.

Q. You have to stand a little over from the shore to avoid those lumps?

A. Yes, sir; after you get above Brown's mill.

Q. After the collision what did you do with the Lee?

A. Capt. Cannon first told me to go into the bank on the Natchez side; we were close to it. Then he countermanded the order and told me to get on the bar that she was sinking. We went over. He said to let her go in very easy on the bar. We went in very easy, working her on the larboard wheel, and there she went down in eight or nine feet of water.

Q. Did you go on the bar above or below the place where the collision occurred?

A. Above.

Q. How far up do you think you went?

A. I suppose we went a quarter of a mile above where the collision happened. We were a little above the mill. A quarter of a mile, I suppose, above.

Q. Do you know how your stem was, how your stem bore to the Natchez shore at the time of the collision?

29 A. At the time the collision happened we were holding right straight up the shore as straight as we could hold.

Q. Can you tell whether the Lee had gotten beyond your control that night, or run off as they say sometimes?

A. No, sir.

Q. What became of the Potomac after the collision?

A. She went down to the wharf-boat at Natchez. She never came to our assistance at all.

Q. Did you observe the shores where you stopped your boat?

A. Yes; I could see both shores very plain.

Q. Can you tell whether your boat had headway or sternway at the time the collision occurred?

A. I couldn't tell; but she had made some six or seven revolutions back, which, I think, should have checked her headway. At night you can't tell exactly. She made six or seven revolutions back.

Q. Have you any idea how much time you occupied in going over to the place on the bar where you rested after the collision?

A. I don't think we were over ten or fifteen minutes.

Q. If a boat is coming down the river towards Natchez, approaching Natchez, how far above Natchez can a man, standing on the starboard side of the "texas" of his boat, see the light of the wharf-boat?

A. On the starboard side of the "texas"?

Q. Yes; coming down.

30 A. He can stand on the starboard side I suppose, and see it a mile about. He can see the wharf-boat light on the starboard; but after he goes further down it will shut out from the wharf-boat, and when he goes three-quarters or half mile from the wharf-boat he can't see the light.

Q. From the starboard side?

A. Yes, sir.

Q. How is a boat to be headed when she is three-quarters or half a mile above Natchez?

A. She ought to have her head towards the Vidalia shore. You head out from above Brown's, you head about the Vidalia shore.

Q. When the head is held in that way what point would a man be able to see standing on the starboard side of the "texas" of his boat?

A. He can't see anything at Natchez. He can see the Vidalia side but not the Natchez side. Three-quarters of a mile above he cannot see the light at the wharf-boat on the starboard side of the texas three-quarters of a mile above. Right above Brown's mill there is the mud lumps, and when you get above Brown's mill you stand out.

Q. Coming down above Natchez how far above Natchez does the light of the wharf-boat first show to a boat coming down?

A. You can see the light a mile and a half or a mile and a quarter above.

Q. How does a boat head at that time when she is a mile and a quarter, or a mile and a half above; how's her head?

A. When you are coming down?

Q. Yes.

31 A. You are holding her to the right of the wharf-boat light when you are a mile and a half above, but when you get about half a mile of the wharf-boat you are heading then to the Vidalia shore—holding her to the right because you can't hold on there—because there is no water there in low water.

Q. How far does the channel run from the Natchez shore above Brown's saw-mill?

A. About Brown's mill?

Q. Yes.

A. When you are abreast of Brown's mill to run the channel you are out next to the dry bar to run the channel.

Q. Then the channel, if I understand you, is nearer to the western than the eastern shore?

A. Yes, sir; when you are abreast of the mill to run the channel you are abreast of this bar; and there is a lot of lumps near the mill that force you out from a quarter to a half mile above Brown's mill; you

have to leave there and go out to the dry bar and run the dry bar down.

Q. Holding the head to the Vidalia side?

A. Yes, sir; it is to the left of the Vidalia landing.

Q. Is the Vidalia landing above or below the wharf-boat?

A. Below the wharf-boat.

Q. How far below the wharf-boat?

A. A half a mile below the wharf-boat.

Q. On the opposite side of the river?

A. Yes, sir.

32 Cross-examination:

Q. Did you ever pilot the Lee before that time?

A. No, sir—yes, sir; I had been pilot on her about five or six weeks—I don't exactly know how long. I had been pilot on the Natchez ever since she came out until I went on the Lee.

Q. Did you ever pilot the Lee after this accident?

A. Yes, sir; I staid on board until I went into the coal business at Vicksburg.

Q. How far is Brown's saw-mill from Natchez?

A. I judge it is from three-quarters of a mile above the wharf-boat.

Q. Did you ever measure it?

A. No, sir.

Q. Don't you know that it is usual for steamboats, after leaving Natchez, to cross over and run under and up the bar?

A. No, sir.

Q. It is not the custom?

A. It is not customary at night, if you see a boat coming down, to try and cross that boat's bow. I always keep the shore. If I see a boat coming down I never try to cross her bow at night.

Q. That is not the question. Is it not customary to cross over after leaving Natchez?

A. No, it is not customary to cross over to the bar after leaving Natchez.

Q. Does the channel run in the bend?

A. The channel runs out to the bar.

Q. The channel don't run in the bend?

A. No, sir, not after you leave above Brown's mill; the water goes out to the bar.

33 Q. What makes the bend in the river; is it not the river cutting in there?

A. I suppose the water cutting in there makes a bend in the river; but those lumps are there, and there is no water round the bend; they all get dry 200 yards from the shore in right low water.

Q. How was the water at this time?

A. The water? at a medium stage. There was about three fathoms in the river.

Q. The lumps were not dry?

A. No, sir; not at the time; but there was not water enough to run over them.

Q. Don't you know that it is usual for descending boats to run the bend, and ascending boats the point?

A. No, I never knew that; I never knew anything of that kind.

Q. Don't you know that it is usual for descending boats to keep in the current?

A. Sir?

Q. Is it not the duty of a descending boat to keep in the current?

A. Yes, sir.
Q. And ascending boats to take advantage of the slack-water?
A. Yes, sir.
Q. Is not slack-water generally under the points?
A. Under them?
Q. Yes.
A. There is no point in this case; this is in the bend, and the water goes out and the slack-water goes right up the shore.
Q. The slack-water up the bend?
34 A. Yes, sir; up the shore. The current sets out to the bar. The lumps set the current out; the slack-water goes up the Natchez shore.
Q. If the current sets out to the bar, what makes the bar?
A. The sand makes the bar.
Q. If the current sets out would it not wash that bar away?
A. I told you that it is the lumps that set the water out to the bar.
Q. If the current set in towards that bar, would it not wash that bar away?
A. It does not wash it away. It is not washed away, and the current goes right out to the bar—runs right down the bar.
Q. And it don't wash the bar away?
A. No, sir.
Q. What forms the bar there?
A. The bar is not forming; it has been there since I was on the river—twenty-four or five years.
Q. How long, in your experience, has the current been running towards that bar?
A. Twenty-four years.
Q. What effect do you think the current of the Mississippi River would have upon a sand-bar when it runs against it?
A. In some places it has more effect than in others. There it don't have any effect. It runs out against that bar and does not have any effect against it.
Q. What sort of a bar is it—a sand-bar?
A. It is a sand-bar.
35 Q. Then you think that the current of the Mississippi River don't have any effect upon the sand that makes that bar?
A. Yes; it does at certain places; but the current has no effect upon that bar; it is bluff bar.
Q. Bluff all the way?
A. Yes, sir; from the mill down it is bluff bar. In low water you can land a boat right against it.
Q. From the mill down?
A. From above the mill down.
Q. How far above the mill?
A. One-quarter of a mile above the mill.
Q. How deep is the water right inside of that bar?
A. I never measured it.
Q. When you first saw the Potomac, was she in her proper place?
A. Yes, sir.
Q. How far off were you when you first saw her?
A. When I first saw her, she was about a mile off?
Q. She was in her proper place when you blew your whistle?
A. Yes, sir.
Q. How far off was she then?

A. When I blew my whistle, she was six or eight hundred yards off, may be more.
Q. She was in her proper place then?
A. Yes, sir.
Q. What portion of the river was she in then?
A. At that time?
Q. Yes.
A. She was a little above Brown's saw-mill.
Q. In the channel up there?
A. Yes, sir; she was right in the channel.
Q. Coming down?
36 A. Yes, sir.
Q. Straight in the river?
A. Yes, sir.
Q. You say she rounded right to?
A. Yes, sir; right into us.
Q. Where did she commence rounding to?
A. Pretty near abreast or little above Brown's mill, right into us. She blew her whistle no further than across the street from here; she blew her whistle and struck us pretty much at the same time—two short whistles right quick.
Q. You said your boat had backed six or seven revolutions?
A. Yes, sir.
Q. How do you know that?
A. By listening to the boat "scape."
Q. How far will the Lee run in a minute?
A. That is more than I can tell you. I am not smart enough man to tell you that.
Q. Will she run five hundred yards in a minute?
A. I can't tell you; I don't know.
Q. Will she run five hundred yards in two minutes?
A. I say I can't tell you how far she will run; I don't know.
Q. You say the Potomac's stem struck the Lee?
A. Yes, sir.
Q. Did you say the Potomac's stem?
A. Her bow struck the Lee; the stem is on the bow.
Q. Did you say the Potomac's stem?
A. I say the bow of the Potomac came right into us, and she struck us head on.
37 Q. Did you see the Potomac's stem at the time?
A. No, sir; I didn't see the Potomac's stem.
Q. Who was in the pilot house with you?
A. A young man by the name of Roberts.
Q. What was his other name?
A. I don't know.
Q. What was he doing there?
A. He was steering.
Q. Is he a relative of Capt. Cannon's?
A. I think he is.
Q. Do you know where he is now?
A. No, I don't know; I think he is on the Lee.
Q. How old is Roberts?
A. Indeed, I can't tell you; I judge he is about sixteen or seventeen years old.
Q. He was in the pilot-house with you?
A. Yes, sir.

Q. What was he doing up there?
A. He was steering with me; he was learning the river.
Q. Did he have hold of the wheel?
A. No, sir.
Q. Had he hold of the wheel?
A. No, sir; not after we left Natchez; he hadn't touched the wheel from Natchez.
Q. Do you know Roberts' first name?
A. No; I do not.
Q. Do you know what they call him?
A. No, sir.
Q. How long had he been aboard the boat with you?
A. I can't tell you how long he had been there.
38 Q. How far was the Lee from the Natchez shore, when you first saw the Potomac?
A. When I first saw her?
Q. Yes.
A. I judge she was a hundred and fifty yards from shore.
Q. She was pretty close on the mud lumps?
A. Not very; we were below the mud lumps; we were not up to them; the mud lumps are above the mill.
Q. There are not any below the mill?
A. Right abreast of the mill and above it.
Q. How far was the Lee from the Natchez shore when the whistle blew?
A. When we whistled?
Q. Yes.
A. I kept about the same distance; about one hundred and fifty yards from shore, right straight up the shore; as near as I can judge, about the length and a half of the boat from the shore.
Q. Is it customary for the boats to run that bend there—ascending boats.
A. Yes; it is up as far as Brown's mill, then they cross out to go out from the lumps; it is customary to run up that far.
Q. Why do you have to run that bend there?
A. Because it is slack water about the bend, but off the shore the current sets out as I told you before.
Q. How far was the Potomac from the Lee when she first commenced rounding out?
A. When she commenced rounding into us?
Q. Yes.
39 A. When she commenced turning around into us, I believe she was about one hundred and fifty or two hundred yards from us; it looked to me as if she was going right square into us.
Q. How were the boats heading after they struck?
A. The Potomac swung right alongside of the Lee—right broadside.
Q. How were the boats heading?
A. The Lee was heading up river, and the Potomac struck her and swung alongside of the Lee, both were headed up the river.
Q. Right square up the river?
A. Right up the river.
Q. Did you look at the bank at the time?
A. Yes, sir; we were headed up river; you might say straight up the river—up the shore—yes, sir.
Q. Do you know when the McGill left Natchez?

A. I judge she left there about half an hour before we did; I saw her when she left there.

Q. Were you there when she left?

A. Yes; I saw her when she left.

Q. Did you ever know of steamboat running off that bar?

A. Did I ever know of one?

Q. Yes.

A. No, sir; I never knowed of one; I never had one to run off from there with me.

Q. Don't boats frequently run off over the bars?

A. I cannot tell you what boats do. I never had one run off with me.

Q. You don't know that boats do run off bars?

40 A. No, sir; I never had boats to run off with me.

Q. You say that the Potomac gave no assistance after you run aground?

A. No, sir; she went down to the wharf-boat.

Q. Did the Lee blow for assistance?

A. No, sir.

Q. Did the Potomac blow three times afterwards?

A. No, sir. I did not hear her blow at all. She went down to the wharf-boat.

Q. The Potomac didn't run up on the bar?

A. No, sir.

Q. You are certain of that?

A. Yes, sir; I am certain of that.

Q. How wide is the river between that saw-mill and the bar?

A. I judge it was from the bar to the saw-mill—it must be—it is over half a mile—at that stage of water; when this collision happened it was over half a mile from the saw-mill to the bar. It is a half mile any how.

Q. How wide is the channel there?

A. The channel is two hundred yards wide there from the lumps to the bar, there is further two hundred yards, that is above where this collision happened.

Q. At the place where the collision happened?

A. Where the collision happened there is plenty of water for half a mile.

Q. How near the shore did this collision happen?

A. About one hundred and fifty yards from the shore, from the Natchez shore.

Q. How came you so close into the Natchez shore at that time?

41 A. Because that is the route we run, that is customary way to run.

Q. One hundred and fifty yards?

A. Yes, sir.

Q. You stated awhile ago that you were running up about one-third of the distance from the Natchez shore?

A. I told you I was running about one hundred and fifty yards from the shore.

Q. You didn't say one-third of the distance?

A. If I did, it was all right; I told you a hundred and fifty yards.

Q. Didn't you state that you were running one-third of the distance?

A. I told you that it was one hundred and fifty yards.

Q. You are positive that you didn't state that?

A. I am pretty near positive. I might say that, but I judge it was one hundred and fifty yards from the shore.

Q. Is one hundred and fifty yards one-third of the way across to the bar?

A. How many yards is it across to the bar? I say it is one-half a mile. How many yards does it take to make a half a mile?

Q. It takes about—

A. I am no lawyer or scholar.

Q. It takes 880 yards to make a half a mile.

A. I judge it was one-half mile from the shore where the collision happened, to the bar.

Q. You were not one-third of the way from the shore?

42 A. I was about one hundred and fifty yards, as I told you, from the shore.

Q. How long did the Potomac continue in a proper place in the river?

A. How long?

Q. Yes.

A. I should suppose she continued after I saw her, some two or three minutes.

Q. In her proper place?

A. Looked like she was. Yes, sir; two or three minutes.

Q. After you blew, how long did she continue in her proper place?

A. After I blew my whistle?

Q. Yes.

A. I blew my whistle about six or eight hundred yards from her.

Q. How long after that did she continue in her proper place?

A. She came down in about one hundred and fifty yards of us, and then rounded right into us. I don't know exactly the time.

Q. She turned right round in the river?

A. Yes, sir; she rounded.

Q. For the purpose of running into you?

A. I don't know what the purpose was or any thing about that.

Q. What inducement would the Potomac have for rounded to at that particular point?

A. I can't tell you any inducement unless the pilot didn't know, saw us coming and took the Lee for the wharf-boat, or something.

43 Q. Would it be an easy matter to mistake the Lee for a wharf-boat?

A. I can't tell you about that, what a man might do.

Q. I just ask the question if it would be an easy matter to mistake the Lee for a wharf-boat.

A. I can't tell you.

Q. Does the Lee look like a wharf-boat?

A. The wharf-boat is steamboat hull with a cabin; has lights and everything same as a steamboat.

Q. Has the wharf-boat a signal light?

A. She has a signal light on her side.

Q. I mean like the Lee's?

A. No, sir; not up high that way.

Q. Didn't you think that the Potomac was the McGill going up?

A. No, sir; I didn't think the Potomac was the McGill going up.

Q. How fast was the Potomac going when she ran into the Lee?

A. I can't tell; I don't know; I never was on the Potomac.

Q. Did she have any headway on her?

A. I can't tell you that. She must have had headway on her, or she couldn't run half way through us.

WESLEY L. WHITLOW, sworn for libellant, says:

Q. What is your calling?

A. I am a steamboat mate.

Q. How long have you been steamboating?

44 A. I have been on the river nineteen years this July.

Q. What trade have you been in?

A. Louisville and New Orleans, St. Louis and New Orleans, and Vick'burg and New Orleans.

Q. Were you on the Lee when this collision occurred between the Potomac and Lee?

A. Yes, sir.

Q. In what capacity?

A. Mate of the Lee.

Q. Where were you at the time?

A. When the Lee's whistle blew I was in the hall of the texas.

Q. What time did the boat leave Natchez that night?

A. I should judge it was about a quarter to twelve o'clock; somewhere's along there.

Q. At night?

A. Yes. I didn't pay much attention to the time. It was between eleven and twelve o'clock. I was not on watch at the time, but I was up.

Q. Do you know anything about how the boat was running, and how she was steering after she left the wharf-boat at Natchez?

A. When we started out from the wharf-boat we started as we usually do. I paid no attention to the course she took then.

Q. Did you see the Potomac?

A. The first I saw of the Potomac was just a few minutes before she struck us. I was in the hall of the texas when the Lee blew one whistle.

Q. What sort of whistle is the Lee's whistle?

45 A. It is a very splendid whistle. It can be heard a long way off. There are very few better whistles on the river.

Q. Do you know how the Lee was running, as to speed?

A. I don't think the Lee was making over eight or nine miles an hour when she started off; I don't suppose she could have been, just leaving the wharf-boat.

Q. How long had you been at the wharf-boat?

A. Well, we had been at the wharf-boat—I can't say how long. We had done a great deal of business there. I didn't keep account at the time.

Q. You had been there as much as an half hour?

A. Yes, sir; two hours.

Q. You had been there two hours?

A. Yes, sir.

Q. When you lay at a landing as long as one or two hours, does the steam go down, or what?

A. Yes, sir. They always let it cool down while at a wharf-boat. Never put in any fire after they land until they get ready to leave.

Q. When you saw the Potomac which way was she heading?

A. The Potomac was almost square across the river when I first saw her. That is when I come out of the hall of the texas on the roof of the Lee, and got, perhaps, half way between the hall door and the

Lee's chimneys, I saw the Potomac. When I first saw her was when I opened the door. Then she was lying, it seemed to me, if anything her stem was a little quartering up stream; her broadside was to me—almost to me. After I saw her, when she struck us, I heard her
46 blow two whistles. Almost immediately after the sound of the two whistles, she struck us.

Q. What lights on the Potomac did you see when you first saw her?

A. I didn't see anything particular, no more the lights all about a boat, the sky-lights and the lights out from the sky-lights. The broadside of the boat was toward me; almost a full broadside view of her.

Q. Did you pay any attention to the shores at that time?

A. I could see both shores at the time the thing happened, for I looked towards each side, and I could see both shores; it was not a good night or a bad night; it was a night that a boat could run very well; a man could see both shores very well.

Q. Have you any idea how far you were from the Natchez shore?

A. No, sir; I didn't pay any attention to that. I judge after the Potomac struck us she rounded to right alongside of us, and then went ahead; went right around our bow, which had a tendency, and which did shove the Lee's head a little over to the Natchez shore. I then went in the hold to see what damage was did. I didn't come up on the roof until the boat was on the bar.

Q. After the collison the Potomac went ahead?

A. Yes, sir; went around the Lee's bow, and she rounded to right alongside of us after striking us. When she struck us she came right alongside of us for an instant, and then went right ahead. The Potomac went right around our bow, and went on down the river.

47 Q. You went down in the hold; you don't know anything about any further manouvering?

A. No, sir; no more than Capt. Cannon worked the boat over to the bar, and she settled there. I came out of the hall of the texas as soon as she blew one whistle, and they rung the bells to stop her; and when they rung the bells to stop her I got up out of my chair; about the time I could stand up they rang to back her, and I went out of the hall very quick, in fact, I run out. I knew there was something wrong, although I hadn't heard the whistle of another boat up to that time, and the time I got to the roof, which was about, I suppose, as far as from here to the back part of the room, then just there the Potomac blew.

Q. About thirty or forty feet?

A. Fifty or sixty feet probably. The texas hall door goes out pretty well back towards the wheel. The Lee's course, as near as I could tell, was straight up and down the river until this Potomac struck, then they knocked our head towards the Natchez shore.

Q. After the Lee went on the bar you stayed there a day or two, didn't you?

A. I stayed there until we raised the boat, then I went up the river on the Grand Era.

Q. While you were lying there did you notice whether you were lying above or below Brown's saw-mill?

A. That I can't tell. I didn't pay any attention to the saw-mill at all.

Q. You were pretty busy trying to raise the boat?

A. I never thought anything about the saw-mill.

48 Q. Did you observe how far it was from the place where the Lee laid on the bar to the town of Vidalia—to the court-house?

A. No, sir; I couldn't say what was the distance down from where we were.

Q. Have you any idea how many revolutions back the Lee had made when the collision occurred?

A. Well, from the time the pilot rung I suppose it was some three or four revolutions; she handles very quick.

Q. Is there any difference in the "scaping" when a boat is backing and when she is going ahead?

A. Yes; a boat "scapes" louder when she is backing, I think, when they first open to back.

Q. How does the Lee "scape"; does she make a noise?

A. A very loud "scape."

Q. You plainly saw both shores when you came out?

A. Yes, sir; I saw both shores.

Q. Had you no difficulty in seeing which way the Lee was heading?

A. No, sir. From the shape of the left-hand shore, the one that I first noticed, we were heading, as near as I could judge, straight up and down the river. It don't take a person very long to get two or three hundred feet, when it comes to that; and when I got out forward I could see the Natchez shore very plain. We were heading, as near as I can judge, straight up and down the river. Our head, after the collision, was knocked over into or on the bend a little. We had to work her around a little to get back to the bar.

49 Q. What part of the Potomac struck you?

A. Her stem.

Q. Where?

A. Eight or ten feet from the stem; eight or ten feet from the bow.

Q. Had the Potomac chimney-lights and signal-lights?

A. I didn't notice; I didn't look for them.

Q. You say that she was nearly broadside to you. Which side was it that you saw?

A. The Potomac?

Q. Yes.

A. The starboard side.

Q. It was her starboard side that you saw?

A. Yes.

Q. What injury was done to the Lee; how far did she get in?

A. She knocked down all the capstan and almost half way through her; that is, enough to knock the little engine all out of place that run the capstan, and broke our brace-hooks in.

Q. She came through the whole of the Lee's guards and her main deck?

A. She went in under her guards and came through her hold; broke the clamps and the brace-hooks.

Q. Tear up all the main deck?

A. I don't think she did.

Q. Do you know whether your capstan was knocked down or not?

A. No; it was not, but the spindle-post was knocked out in the hold.

50 Cross-examination:

Q. Did you not give your evidence before the inspectors in this case?

A. Yes, sir.

Q. Just before a boat gets ready to start out from a port like Natchez she raises steam—gathers up steam?

A. They fill up the fires, yes. They always let the fires slack down while laying at wharf-boat.

Q. You fill up just before leaving?

A. Yes, sir; just before leaving.

Q. Do you know what speed the Lee was making of your own knowledge?

A. I suppose——

Q. No supposition about it.

A. I can't tell.

Q. How long had you been in the texas before you heard the whistle blow?

A. Not over from five or eight minutes. I didn't go——

Q. How long after you left Natchez before you went to the texas?

A. It was some little time. I was down below; I had to attend to getting the boat let go from the wharf-boat. Got things straightened up a little, then I went up stairs.

Q. When you went up on the hurricane roof, to go into the texas, how was the Lee running at that time?

A. I didn't pay any attention, not being my business. I might be up on the roof fifty times and not pay any attention. I think she was running very close to the shore.

51 Q. How long before you left Natchez was it when the McGill left?

A. I don't remember anything about that. I was busy attending to my business; didn't pay any attention to the McGill leaving.

Q. What is the usual course for boats leaving Natchez going up stream—how do they run the river there?

A. I don't know anything about the river. We just pull off from the wharf-boat and start up; I don't pay any attention, not being a pilot; I am not interested in that business. I don't know whether the lumps are on the bend or where they are at. I know there is eddy there some wheres. There is slack water in the bend; some distance above the wharf-boat the current runs out on the bar. I have brought flatboats out in the eddy; have had considerable trouble with them; but after going a short distance above the coal flats at Natchez I don't know about how boats run, which is the proper side of the river or anything of the kind.

Q. Do you know this young man Roberts, that was on board the boat?

A. Yes, sir.

Q. What's his name?

A. His name?

Q. Yes.

A. Joseph Roberts.

Q. Do you know where he lives?

A. No, sir; I don't know. I never was acquainted with him until I went on the Lee.

Q. What was he doing on the Lee?

52 A. I think steering for Charley Pierce; I saw him occasionally in the pilot-house with him; I don't know whether he was in there that night or not; I cannot say.

Q. How long after you heard the boats whistle before you heard her stopping bells?

A. Our bells to stop?

Q. Yes.

A. Well, it could not have been over—I am just guessing at this now—but I don't think it was over two or three minutes—almost immediately—

the backing bell rung; that, I do know, because that started me out of the hall of the texas.

Q. When you jumped, how far off was the Potomac?

A. The Potomac could not have over, I judge, fifty yards from us when I first saw her; for it was before I could walk the length of this room, or run it rather, that she struck us.

Q. How long after you heard the backing bells before you made the jump to go out?

A. When the bells rang to stop her, I got up out of my chair, and by the time I had started up the step, I heard the bells ringing to back her, then I started considerably faster.

Q. How far did you have to go to get outside?

A. Just across the hall of the texas; about as far as from here to that hall.

Q. Then I suppose twelve or fourteen feet?

A. No, sir; it is not quite that far; I was about the centre of the hall—just the width of a steamboat's texas.

Q. You could see the Potomac as soon as you got out?

53 A. Yes, sir; as soon as I got on the roof and saw the Potomac, my first impression was that she was the Mary Houston.

Q. Which side of the texas was your room in?

A. The starboard side—the opposite side from Natchez.

Q. Then you saw the Potomac between you and the other shore?

A. I seen the Potomac on the larboard side; she was laying almost square across the river, heading right for us.

Q. Did you look at the banks about that time?

A. I noticed the shore, the larboard side, that I could notice at the time, and we were laying, to the best of my knowledge, straight up and down the river.

Q. You didn't notice the starboard shore?

A. No, sir; not until I came forward; when I started to come down stairs, I went down on the starboard side, and it happened (appeared) to me at the time, that we were too far from the bend, and I looked over that way, her head was a little towards the bend, which I am satisfied was the cause of the collision.

Q. How much in towards the bend was her head—at what angle?

A. It was not inclined very much; nobody would know that she wasn't about straight up; put a boat straight up and down the river, and let another boat come down and hit her the lick that the Potomac hit us, and I will bet that she will be in the bend; that it will turn her a little.

Q. That was when the boats were laying alongside?

54 A. That was after the Potomac had started to go around our head; by the time I got out where Capt. Cannon was, he was the first person I saw standing by the larboard derrick.

Q. Where?

A. On the Lee.

Q. Where abouts?

A. The larboard forward derrick.

Q. Was he on the hurricane or boiler deck?

A. He was on the hurricane deck of the Lee.

Q. How far did you say the Potomac was from the Lee when you went out and saw her?

A. I think about fifty yards; I should judge it was when I first saw her, it was about a look and a lick; because as soon as I seen her she struck us.

Q. Where was she when you heard her whistle?
A. I don't know anything about that.
Q. Where were you when you heard her whistle?
A. When I heard the Potomac whistle?
Q. Yes.
A. On the roof of the Lee, very near the chimneys.
Q. You were not then in the texas?
A. No, I was out on the roof when the Potomac blew two short whistles. Almost immediately after she blew her whistles, she struck us.
Q. You did not look at the larboard shore?
A. Yes, sir; that is the shore I saw.
Q. The starboard shore—the Natchez shore until after the collision?
A. Not until after I started to come down stairs.
Q. That was after the collision?
A. Yes, sir.
55 Q. How far were you from that shore at the time of the collision?
A. I won't try to say; you say there must be no suppositions. I couldn't state whether we were two-thirds, or one-third, or one-half of the ways. I didn't pay any attention; there was considerable water between us and the sand-bar. I remember that very distinctly.
Q. Where were you standing when the boats came together?
A. Just about as far, as I recollect now, abreast of the larboard chimney of the Lee, on the roof, out next to the railing, between the chimney and the roof railing, where I could see the whole thing; had a full view of the whole thing. From the time I left the hall door of the texas I had a full view of this (Potomac) until she struck us, and rounded to and went ahead.
Q. Were the Potomac's lights burning?
A. I saw lights about the steamboat, but I didn't notice her chimneys; I suppose her lights were there, but I don't know; I saw the lights from her chandeliers through the skylights.
Q. How long would it take the Lee to back three or four revolutions?
A. I am no engineer; but she will do it mighty quick; nobody else's steamboat will do it any quicker than she will.
Q. I mean backing.
A. Yes, sir.
Q. How long would it take her to make three or four back, after she has stopped; do you know?
56 A. No; I won't pretend to say; I might miss it a minute.
Q. How do know that she had made three or four revolutions?
A. I can hear a boat back; I can tell when a steamboat is backing.
Q. How can you swear that she was making two or three revolutions back?
A. I judge she was; she had had time to make three or four from the time that the bells rung until the Potomac struck her.
Q. When she is in full speed how many revolutions would she make ahead a minute?
A. I don't know.
Q. Would she make twenty-five?
A. I don't think she would in that length of time.
Q. In a minute?
A. I don't know now; I never did hear about that. I don't think

she will come up to twenty-five a minute unless it was going on that last trip to Natchez; she might have gone there then.

Q. Is the Lee a very powerful, strong steamboat?

A. Yes, sir.

Q. Easily handled?

A. Yes, sir; answers her engine as well as any steamboat I was ever on, if not better.

Q. Which is the easiest boat to steer, the boat going up stream or a boat coming down stream?

A. It is owing to circumstances.

Q. Where the down-stream boat is heavily loaded?

57 A. If she is loaded right she ought to outsteer a boat going up light; but a steamboat coming down light, as a general thing, steers well.

Q. She steers better coming down than going up.

A. Yes, sir.

Q. You think so, do you?

A. Down stream?

Q. Yes.

A. Yes.

Q. You think she steers better down stream?

A. Yes, sir; better than a boat coming up light.

Q. A boat going up loaded, like the Lee was?

A. A boat going up loaded like the Lee and a boat coming down loaded like the Potomac, the Potomac ought to have steered very well.

Q. Which ought to have steered well?

A. I don't know anything about the Potomac's steering qualities. There is just as much difference between two steamboats in steering as there is in anything.

Q. I am talking about general principles. Will a boat properly loaded going up stream steer better than a boat heavily loaded coming down stream?

A. She is easier handled; handled quicker; but when it comes to steering a boat—I have steered considerable myself.

Q. Which could get out of the way of the other boat best; the ascending boat, loaded about like the Lee was, or a descending boat, loaded like the Potomac?

A. It stands to reason that the up stream boat could get out of the way best.

58 Q. Wasn't there plenty of room in the river for the Lee to have gone around the Potomac?

A. I can't say how the shore is; I know the pilots all say you can go within a certain distance of that point. He may have been as near as he could go; I don't know.

Q. Is it customary for ascending boats to run the bend?

A. There is a difference in opinion about that. I have seen boats coming down stream run the bar; boats going up stream run the bar. I have seen boats going up run the bars; coming down run the bends.

Q. What is the usual custom?

A. I believe the bend side, for ascending boats.

Q. And ascending boats the points?

A. Yes, sir.

Redirect examination:

Q. You don't profess to know anything about navigation and piloting?

A. No, sir; I have never piloted; I have just had hold of the wheel. I know as little about the river as a man can who has been on it for nineteen years. I want it particularly understood that I am no pilot; don't know anything about that particular business.

District court of the United States of America, for the district of Louisiana, holding sessions in the city of New Orleans.

To any U. S. commissioner at Natchez, Miss.:

Know ye, that reposing special trust and confidence in your
59 integrity and ability, we hereby authorize and require you, that you call and cause to come before you Lewis F. Carvey, Joseph B. O'Brien, R. R. St. John, and Lynch Anderson, residing at Natchez, in the State of Mississippi, and them duly examine on the annexed interrogatories and cross-interrogatories on oath, touching and concerning certain matters and things in a case now pending in the said court, wherein John W. Cannon is libellant, and the owners of the steamer Potomac are defendants; and the same examinations, so taken and reduced to writing, you certify under your hand and seal, and send enclosed to this court without delay, to be read in evidence on the trial of said cause and send also this writ.

Witness the honorable Edward H. Durell, judge of the district court of the United States of America for the district of Louisiana, at the city of New Orleans, this 28th day of November, A. D. 1872.

[SEAL.] J. A. CHARBONNET,
Deputy Clerk.

United States district court, district and State of Louisiana. In admiralty.

JOHN W. CANNON *vs.* STEAMBOAT POTOMAC. } No.

Interrogatories to be propounded to Lewis F. Carvey, Joseph B. O'Brien, R. R. St. John, and Lynch Anderson, residing at Natchez, in the State of Mississippi, witnesses for libellant in the above-entitled cause.

1st. State your age, residence, and occupation.

2d. Do you know the distance from the wharf-boat at Natchez to Brown's saw-mill? If so, state the distance, and how you ascertained it?

3d. Do you know anything about the collision between the steamboats Robert E. Lee and Potomac? If so, state where you were at the time the collision occurred, and what you saw of it.

60 4th. Did you hear any whistles blown by either boat before the collision? What whistles did you hear?

5th. How far were you from the place at which the collision occurred? In what part of the river did the collision occur? Was it above or was it below Brown's saw-mill? How far was it above, or how far was it below Brown's saw-mill?

6th. Where did the Lee sink? Was it above or was it below Brown's saw-mill? How far was it above, or how far was it below Brown's saw-mill?

7th. State whether or not you saw the two boats before they came

together. If you did, which way the Lee headed, and which way was the Potomac headed? On which side of the Lee was the Potomac?

8th. State anything else you may know about the collision tending to show how the two boats approached each other and came together, and in what part of the river they came together. State also whether the Lee sunk above or below the place at which they came together, and how far above or how far below it was.

R. H. MARR,
Proctor for Libellant.

N. O., 12th Nov., 1872.

U. S. district court, district of Louisiana.

JOHN W. CANNON
vs.
STEAMBOAT POTOMAC. } No.

Claimants reserving the benefit of all legal exceptions to the questions of libellant and to the answers of the witnesses thereunto, propounds to each and every witness the following cross-interrogatories:

61 First cross-interrogatory. On what day of the month, and of what month and year, did the collision you speak of take place; and was it at night, about midnight; and wasn't it a very dark, rainy, cold night?

Second cross-interrogatory. Whereabouts is Garvey's office; isn't it under the hill and nearly three-fourths of a mile from Brown's saw-mill? How can you swear that you can always see a steamboat at Brown's saw-mill at night, when it is cloudy and cool, and raining? And do you pretend to say that you can, from Garvey's office or from the wharf-boat at Natchez, see sufficiently clearly on such a night as to be able to swear as to the exact direction two boats should be steaming as far away as Brown's saw-mill?

Third cross-interrogatory. Does not Lewis F. Garvey sell coal to the R. E. Lee; and are not Joseph B. O'Brien and Lynch Anderson in his employment, and are not all three strong partisans and friends of the R. E. Lee?

Cross-interrogatories to Lewis F. Garvey.

First. Where do you reside in Natchez? Is it not on the hill? and how far is it from Brown's saw-mill? and can you see Brown's saw-mill from your residence?

Second cross-interrogatory. Is not your office under the hill, and is it not more than half a mile from Brown's saw-mill? and did you

62 see from your office that night the boats before the collision? If you say you did, then explain how you happened to be in your office at night at that hour, and how you could see the way two boats are heading on such a night at such a distance?

Third cross-interrogatory. Haven't you been requested to get up evidence for the Lee in this cause, and haven't you been doing so? Haven't you spoken to Lynch Anderson, and told him you wanted him to testify in favor of the Lee or Jno. W. Cannon, or words to that substantial effect?

Fourth cross-interrogatory. Didn't the Lee cross from the Natchez

wharf-boat to the Louisiana side, to run up the bar shore; and does she usually run the river in that way?

Cross-interrogatories propounded to Joseph B. O'Brien and Lynch Anderson.

First cross-interrogatory. Are you not a coal-boat tender or a watchman on the coal barges; and are you not employed by Mr. Lewis F. Garvey?

Second cross-interrogatory. Is not Lynch Anderson a colored man, and a watchman on the coal flats; and do you not know that the Potomac was coming down the river in her usual way; and did not the Lee cross over and run up the bar in the usual way?

Third cross-interrogatory. Did any coal flat go out that night with the Lee?

63 Fourth cross-interrogatory. Is not Joseph B. O'Brien such a strong friend of the Lee, that he has made himself conspicuous for her on several occasions? and is he not prejudiced in her favor?

Fifth cross-interrogatory. How could you see the course of each boat, and tell her exact heading on such a dark and cloudy night? Don't you know that it is impossible for a man to form a correct idea of the course of a steamboat nearly a mile from him, in the middle of the river, on a dark and blustering night?

Sixth cross-interrogatory. How can you swear the exact distance between the Lee and the Potomac when the whistles were blown? Can you form any idea of the distance between the boats on that night? If you say you can, explain how you can do so.

Seventh cross-interrogatory. How much of your evidence in chief, and on cross-examination, is of your own knowledge, and how much of it is based upon what you have heard? Specify such latter parts.

GIVEN CAMPBELL,
Proctor for Claimants.

Motion and affidavit for commission waived, Nov. 16th, 1872.

GIVEN CAMPBELL, *Proctor.*

64 District court of the United States, district of Louisiana, holding sessions in the city of New Orleans, Louisiana.

SOUTHERN DISTRICT OF MISSISSIPPI,
Adams County, city of Natchez.

Be it remembered, that on this twenty-third day of January, A. D. 1873, at my office, in Natchez, aforesaid, personally came, Lewis F. Carvey, Joseph B. O'Brien, R. R. St. John, and Lynch Anderson, residents in said city, to me personally known, and the witnesses named in the commission herewith returned, annexed, upon the call of the libellant in said commission named; whereupon, I, Josephus Hewett, the undersigned, United States commissioner for the aforesaid district at Natchez, duly appointed and qualified, did first duly swear said witnesses severally, to answer, depose, and say in reply to the direct and cross-interrogatories to said commission returned annexed, the truth, the whole truth, and nothing but the truth; and having been thus solemnly sworn, in reply to the said direct and cross-interrogatories, read and propounded to the witness by me, the U. S. commissioner aforesaid; the aforenamed Lewis F. Carvey, did depose as follows:

To the first direct interrogatory: I am thirty-five years of age; my residence is in the city of Natchez, and my occupation that of a coal agent.

To second direct interrogatory: I do know the distance from
65 the wharf-boat at Natchez, to Brown's saw-mill. The distance is about forty-four hundred and ten feet (4,410). I measured the distance with a tape-line.

To third direct interrogatory: I know a collision occurred between the steamer Robert E. Lee and the steamer Potomac. It occurred on the night of Wednesday, the twentieth day of December, 1871, as deponent thinks, after midnight; say, from 12 to 2 o'clock, a. m., of the 21st day of that month. Having inadvertently stated above that "I know" of the "collision," I have to state the facts, in explanation of that statement. I was on board of the R. E. Lee, at the Natchez wharf-boat, on the night of the 20th of Dec'r, 1871, near midnight, and left, and returned to my residence, on the hill, in Natchez, about midnight. Had just got to bed when I was summoned to the landing by a messenger.

On arriving, found my steam-tug had left, and had gone up the river in consequence of some accident which had occurred above Brown's mill. I then, from what I heard, hastened to the wharf-boat at the Natchez landing, where I found the steamer Potomac in what was evidently a sinking condition. There was great excitement. I inquired if I could render any assistance, and on learning that the Potomac needed those articles, furnished her with pumps and sawdust, and proffered the aid of all the materials in the coal yard, if they could be of any benefit to the boat. I do not know any of the officers of the boat, and cannot say if my communication was to the captain or
66 other officer; but it was some person then acting as an officer, and in authority. It was near noon of the twenty-first before the Potomac got off on her way down the river. When I was on the Lee, before going up home for the night, the R. E. Lee was about leaving, on her way up the river. I had about reached the top of the hill, say some ten or fifteen minutes after I left her, when she left the landing.

When summoned back from home, as stated above, on finding my steam-tug gone, I, after visiting and aiding the Potomac, took a skiff and hastened up above Brown's mill, where, it was said, an accident had occurred. Deponent thinks it must have been near four a. m. of the 21st, when he reached a sunken steamer, which he found to be the R. E. Lee, which he had left at the Natchez landing a few hours before. I found she had been struck on the larboard side, a little aft of the stem, which was stove in. The Lee had been run over on to the sand-bar—her larboard side as she was ascending—and had there sunk, in water that did not cover her main deck. With the above, I have to add—in reply to the precise terms of the last clause of this 3d interrogatory—I saw nothing of the "collision" between the two steamers.

To fourth direct interrogatory: I am not certain, but under the impression that about the time I was entering my gate, on going home, after leaving the Lee at the wharf-boat that night, I did hear the sound of one whistle, but could not depose with confidence.

67 To fifth direct interrogatory: Deponent cannot be exact as to the distance from his residence, where, from the time that had elapsed after his arrival until called to the river, as before stated, he must have been at the time of the collision, to the spot where he afterwards found the sunken steamer Lee, but would estimate it at from one-half to three-fourths of a mile. As before stated, deponent did not see the collision

occur. Can only say that he found the steamer R. E. Lee sunk, as before stated, on the sand-bar on the opposite side of the river from and a very little above the mill. Deponent cannot say exactly how far above.

To sixth direct interrogatory: This is already answered as fully as is in the power of deponent. The steamer R. E. Lee was sunk on the sand-bar on the opposite side of the river from and nearly opposite to, perhaps a little above, the mill.

To seventh direct interrogatory: The first I saw of the Potomac on the night of the 20th and 21st of December, 1871, was when I found her crippled at the Natchez wharf-boat, as before stated. Know nothing of the position of the Lee or the Potomac at the time of the alleged collision. Know nothing as to which side of the Lee the Potomac was on at the time.

To eighth direct interrogatory: As deposed above, not having been present at the time of the alleged collision, am utterly ignorant as to all the matters enquired after in the interrogatory.

68 And here the further examination of the witness was, at his request, postponed until to-morrow, at 9½ o'clock a. m., at the same place.

J. HEWETT, SR.,
U. S. Commissioner, etc.

And now at 9½ o'clock a. m. of Friday, the 23d of January, 1873, before said commissioner, at my office, as on yesterday, came said L. F. Carvey, the witness examined in portion yesterday; and in reply to the cross-interrogatories, returned herewith annexed, said witness did depose as follows, to wit:

To first cross-interrogatory: The collision between the steamers R. E. Lee and the Potomac occurred, as deposed before in reply to direct interrogatories, between 12 o'clock midnight and some 2 o'clock a. m. of the 21st of December, 1871. It was at night, the wind blowing strong from the north. It was a very cold night, but dry, and not raining.

To second cross-interrogatory: My office is under the hill, near the Natchez wharf-boat, and about 4,200 or 4,300 feet from Brown's mill—down the river from the mill. To the remainder of this interrogatory deponent can only reply that he has deposed to no such matters as are there presumed to have been sworn to by him, and does not propose to do so.

69 To third cross-interrogatory: Deponent's name is Lewis F. Carvey, but presumes he is referred to in this interrogatory, and replies that he does "sell coal to the Robert E. Lee regularly." Joseph B. O'Brien and Lynch Anderson are in his employment. Deponent has had, in the course of his business as coal merchant, numerous transactions with the R. E. Lee, or its officers and owners; but only in degree, or amount, other than with many other steamers, and is not conscious that he is to such an extent a "strong friend" or "partisan of the Robert E. Lee" as to induce him therefore to sacrifice truth or right. To the best of deponent's knowledge, the same can be truly said of his employees, Joseph B. O'Brien and Lynch Anderson.

To first special cross-interrogatory to L. F. Carvey: I now reside at a different place, and more distant from the river than on the 21st of December, 1871. I then resided at the corner of Canal and Maude streets, in Natchez, on the hill, about one-fourth of a mile from the Natchez wharf-boat, and about the same distance from Brown's saw-mill. Brown's saw-mill could not be seen from my then residence.

To second special cross-interrogatory: On the night of the collision

I did not see the boats said to have collided before the collision, except that shortly before midnight I saw the Lee at the Natchez wharf-boat bound up the river.

To third special cross-interrogatory: Have been informed by
70 Captain Cannon he was intending to take my deposition and those of the hands in my employ. Have not been requested to get up evidence for the Lee in this cause, and have not been doing so, unless ascertaining the distance from the wharf-boat to Brown's saw-mill is so considered.

Deponent has said to Lynch Anderson that if his deposition was taken in this cause he must tell the truth, and all the truth, and nothing else, and this is to the "substantial effect" of all he has ever said to Lynch Anderson on this subject, or any other person.

To fourth special cross-interrogatory: Deponent had left before the Lee went out, and cannot say whether on that occasion she did cross over to run up on the bar shore or not. The Lee does usually, in common with most other boats, cross from the wharf-boat when ascending the river and keep the bar shore.

LEWIS F. CARVEY.

And further said witness deposed not; and adjourned to the next day.

J. HEWETT, SR.,
U. S. Com'r, etc.

And now, on Friday, the 24th of January, 1873, at my office in Natchez, according to adjournment on the day preceding, came and appeared Richard R. St. John, one of the witnesses aforesaid, and duly sworn to testify, depose, and say, in answer to the said direct
71 and cross-interrogatories, returned annexed hereto, the truth, the whole truth, and nothing but the truth, in reply thereto, did testify as follows, to wit:

To first direct interrogatory: My age is forty-five; my residence is in Natchez; my occupation is that of a lumber merchant.

To second direct interrogatory: I do know the distance from the wharf-boat, at Natchez, to Brown's saw-mill; it is 4,410 feet; I am sure of the distance, because I measured it myself, in conjunction with L. F. Carvey, J. B. O'Brien, and James O'Brien.

To third direct interrogatory: I have no personal knowledge of the collision between the steamer R. E. Lee and the Potomac.

To fourth direct interrogatory. I heard no whistle blown by either of these boats.

To fifth direct interrogatory: Cannot say where I was at the time of the collision between the two steamers named, as I didn't see it, or know when it occurred, but presume I was at home. Do not know in what part of the river the collision occurred. Have no knowledge how far above, or below, Brown's saw-mill; can only say, that the morning after the Lee was regularly due, bound up, I found, and saw at the Natchez wharf-boat the steamer Potomac, and went on board of her. She appeared badly crippled; and at the same time saw the steamer Lee, on the sand-bar, opposite Brown's saw-mill, apparently sunk.
72 To sixth direct interrogatory: I found the R. E. Lee sunk, on the bar, nearly opposite Brown's saw-mill, on the Louisiana side of the river, on the morning of the 21st of December, 1871. This is all I know about her sinking.

To seventh direct interrogatory: Deponent is utterly ignorant and

uninformed, so far as any personal knowledge is concerned, as to any of the matters in this seventh direct interrogatory named.

To eighth direct interrogatory: On all the matters in this interrogatory named deponent is totally ignorant, so far as any personal knowledge is concerned.

And in reply to the cross-interrogatories, returned hereto annexed, with commission aforenamed, said deponent made following answers, to wit:

To the first cross-interrogatory: Deponent can say as to time of the alleged collision, that on the morning of the 21st of December, 1871, as deponent now thinks and believes, he found the steamer Potomac lying in a damaged condition at the Natchez wharf-boat, and on the same day was on the steamer R. E. Lee in a sunken and greatly damaged condition lying on the sand-bar opposite Brown's saw-mill. Also deposes that at 9 o'clock p. m. the previous day neither were there, nor anywhere in sight. The previous night was a windy, cold, but dry night.

To second cross-interrogatory: The office of Mr. Carvey is about 150 feet nigher Brown's mill, on the river bank, than the Natchez
73 wharf-boat, which was 4,410 feet from said mill, say near three-fourths of a mile from Brown's saw-mill. Deponent has not sworn, as in this interrogatory is supposed, still, I do "pretend to say," and in reply do depose, that on such a night as that of the 20th and 21st of December, 1871, was, I could, and so could any other man acquainted with steamboating on the Mississippi River—the distance of Carvey's office from Brown's saw-mill—and could from Carvey's, or from the Natchez wharf-boat, see sufficiently clearly to be able to depose understandingly and truthfully as to the direction two boats should be steering as far away as Brown's mill.

To third cross-interrogatory: I believe, indeed, know, that Lewis F. Carvey does sell coal to the R. E. Lee, regularly; Joseph B. O'Brien and Lynch Anderson are in his employment in his coal-yard. These three persons are not, to deponent's knowledge, more "strong friends," or "devoted partisans," of the R. E. Lee than to other steamers who do business with them, in the same line.

R. R. ST. JOHN.

And thereupon the further taking said depositions was postponed until to-morrow, at 10 o'clock a. m., at the same place.

And now on Saturday, the 25th of January, 1872, at 10 a. m. of that day, and from that hour until 2 p. m. of the same, I, the said commissioner, in pursuance to the adjournment last aforesaid, did attend at my aforesaid office, to receive the taking the testimony of the aforenamed deponents, neither of whom appeared; and thereupon at
74 the said hour of 2 p. m. of the day last aforesaid the taking of same was postponed until Monday, the 27th inst., at 10 o'clock a. m., at the same place; and said witnesses Joseph B. O'Brien and Lynch Anderson notified then to be present.

And now, on this 27th day of January, at the same place as aforesaid, at 10 a. m. on that day, came Joseph O'Brien, the aforenamed witness, who, on behalf of the aforesaid libellant, John W. Cannon, and in reply to the direct and cross-interrogatories herewith returned, with the said commission annexed, after having been first duly sworn in such replies to testify the truth, the whole truth, and nothing but the truth, depose as follows, to wit:

To first direct interrogatory: My name is Joseph B. O'Brien; my age is thirty-one years; and my occupation is that of foreman of the coal-yard of Riddle, Coleman & Co., of Natchez, Miss.

To second direct interrogatory: I do know the distance from the wharf-boat at Natchez to Brown's saw-mill; it is forty-four hundred and ten (4,410) feet. That fact I ascertained by actual measurement.

To third direct interrogatory: I do not know anything about the alleged collision referred to in this interrogatory. If necessary I can state: I was at the time it is said to have occurred absent from Natchez, at Simmsport, on the Atchafalaya, in Louisiana.

75 To fourth direct interrogatary: I heard none.

To fifth direct interrogrtory: I am totally ignorant, so far as my personal knowledge is concerned, of all the matters referred to in this interrogatory.

To sixth direct interrogatory: To this interrogatory my answer is the same as that made to the last preceding.

To seventh direct interrogatory: The same answer to this as to the two last preceding interrogatories.

To the eighth direct interrogatory: On all the matters in this interrogatory enquired about, have no personal knowledge whatever.

And thereupon said witness, in reply to the cross-interrogatory returned annexed, did depose and say as follows, to wit:

To first cross-interrogatory: Have no knowledge whatever, personally, on the subjects named in this interrogatory.

To second cross-interrogatory: Carvey's office is under the hill, at the coal-yard of Riddle, Coleman & Co., in Natchez. Said office is about 150 feet nigher Brown's saw-mill than the wharf-boat, which would make the measured distance from that office to the mill about 4,260 feet. When deponent has sworn "that he can always see a steamboat at Brown's saw-mill at night, when it is cloudy and cool and rain-
76 ing," which deponent has not done, he will find the mode of self-vindication. I do say, and very confident, that on an ordinary night, even though cloudy, I could, if at Carvey's office, tell which direction two boats should be steaming, when they were at Brown's saw-mill. If it were raining I might not be able to do so.

To third cross-interrogatory: Lewis F. Carvey does sell coal to the R. E. Lee regularly; Joseph B. O'Brien and Lynch Anderson are in his employment. For himself defendant replies that all his attachments or devotion to the R. E. Lee are those of a purely business character; and in no way different from his relations to the Potomac or any other steamer doing business at the coal-yard where he is employed. As deponent had occasion to say to the captain of the Lee, the libellent herein, but a short time since, deponent is under no obligations whatever to him.

And to the cross-interrogatories specially addressed "to Joseph B. O'Brien and Lynch Anderson," deponent O'Brien replies as follows:

To first special cross-interrogatory: Deponent is not a coal-boat tender; neither is he a watchman; but the foreman of the yard of Riddle, Coleman & Co., at Natchez. Deponent is employed by Mr. Lewis F Carvey.

To second special cross-interrogatory: Lynch Anderson is a colored man, and a watchman on the coal-flats, as well as of the entire
77 coal-yard of Riddle, Coleman & Co. Deponent was not present or in the vicinity of the alleged place of collision the night it is said to have occurred; but at Simsport, in Louisiana, and knows nothing of the movements or route of either of the boats named, at the time referred to in this interrogatory.

To third special cross-interrogatory: Do not know whether any coal-flat went out with the Lee the night of the alleged collision or not.

To the fourth special cross-interrogatory: Deponent is not conscious that Joseph B. O'Brien is such a strong friend of the Lee that he has made himself "conspicuous for her on several occasions." He did believe she was swifter than another steamer; backed his judgment, and did not loose. Beyond this, he has not sought to be conspicuous for or against her. Deponent is not aware of any prejudice, nor does he know of any cause for any prejudice in her favor.

To fifth special cross-interrogatory: As deponent has not sworn to the seeing the facts referred to in this interrogatory, but that he was absent at the time of the alleged collision, it will, perhaps, not be required that he should account for doing what he has not yet done. Deponent does not know whether it is impossible for a man to form a correct idea of the course of a steamer, nearly a mile distant from him in the middle of the river, on a dark and blustery night.

To sixth special cross-interrogatory: Have not so sworn, and
78 cannot so swear, as deponent was not present, and never heard any whistles blown. Deponent cannot form any idea of the distance between the boats on that night; from appearances, there must have been but small distance between them at one time.

To seventh special cross-interrogatory: All deponent's testimony is predicated on his own knowledge. What was not of his personal knowledge he has endeavored to avoid stating, and further saith not.

J. B. O'BRIEN.

And thereupon came also, before me, said commissioner, at my office as aforesaid, Lynch Anderson, one of the said witnesses in the said commission hereto returned annexed, as aforesaid sworn, and in reply to the aforesaid direct and cross-interrogatories, with said commission returned, did testify, depose, and say as follows, to wit:

In reply to the first direct interrogatory: I am thirty years of age; my residence, the city of Natchez, Miss.; and my occupation, watchman at coal-yard of Riddle, Coleman & Co., at said city of Natchez.

To direct interrogatory second: I do not know the distance from the wharf-boat, at Natchez to Brown's saw-mill.

To third direct interrogatory: I do not know anything about the collision between the steamers Robert E. Lee and Potomac. I do not know anything about it at all, and don't know where I was when it happened.

79 To fourth direct interrogatory: I have no knowledge of any whistles blown by either of them.

To fifth direct interrogatory: I know nothing of the matters inquired of in this interrogatory.

To sixth direct interrogatory: I do not know where the Lee sunk. Not knowing where she sunk, I cannot answer these interrogatories as to the distance above or below Brown's saw-mill at which the alleged sinking occurred.

To seventh direct interrogatory: I did not see the two boats before they came together.

To eighth direct interrogatory: To all the inquiries in this eighth direct interrogatory contained can only answer as before, my total ignorance.

And in reply to the cross-interrogatories returned annexed to the commission aforesaid, the said deponent replies as follows, to wit:

To first cross-interrogatory: Deponent is not able to make answer to any part of this interrogatory.

To second cross-interrogatory: Carvey's office is under the hill in Natchez. Do not know how far it is from Brown's saw-mill. Have not sworn as is suggested I have in this cross-interrogatory. Those
80 who so swear can better explain how it is done. Deponent has never tried whether he could, at the distance in this interrogatory named, and on such a night, tell which way two boats were steaming, or should steam, nor can say if it is possible to do so.

To third cross-interrogatory: The R. E. Lee gets her coal regularly at Carvey's coal-yard. Cannot tell whether Mr. Carvey sells it to her or not. Deponent's name is Lynch Anderson, the only person of that name at said coal-yard, and Joseph B. O'Brien and himself are both in Carvey's employ. Deponent is not sure he understands the meaning of "partizan," but certainly is a strong friend of Capt. Cannon and his boat, the Lee, and all things that are right.

In answer to cross-interrogatories, specially propounded to Joseph B. O'Brien and deponent, Lynch Anderson, said deponent replies to—

First special cross-interrogatory: I am a watchman, during night, on the coal-boats and of the adjacent coal-yard of Riddle, Coleman & Co., and am employed by Lewis F. Carvey.

Second special cross-interrogatory: This deponent is Lynch Anderson, and am a colored man, and the night watchman on the coal-boats and in the aforenamed coal-yard.

Of the remainder of this interrogatory, as to the relative course of the Lee and the Potomac at the time of the alleged collision, deponent has no personal knowledge.

81 Third special cross-interrogatory: There was no coal-flat went out that night with the Lee, as well as deponent can recollect.

Fourth special cross-interrogatory: Deponent knows of no occasion on which Joseph B. O'Brien has made himself so conspicuous as to be singled out as a friend of the Lee. Deponent does not know whether he "is prejudiced" in favor of the Lee or not.

Fifth special cross-interrogatory: Deponent has not said he did see the "course," or tell the "heading" of the boats on any kind of a night. Deponent has not the means of a satisfactory reply to the latter clause of this interrogatory.

To sixth special cross-interrogatory: Have not so sworn, and have no knowledge if the whistles were blown or not. Have no knowledge of the distance between the boats that night.

To seventh special cross-interrogatory: Deponent has made no statements in this examination, either direct or cross, but upon his own knowledge.

his
LYNCH + ANDERSON.
mark.

Whereupon I, said U. S. commissioner, in the case of each several deponent, after having taken down with my own hand, at the dictation and from the lips of each deponent, the above and foregoing answers to said direct and cross interrogatories, did carefully and distinctly
82 read over to each one said answers by him so as above made, taken down by me, said commissioner, and read to him, and his said own answers being in each deponent's case understood and approved, the said depositions were by each deponent respectively signed in my presence. Do further certify that the said four depositions are now by me, at my office in the aforenamed city of Natchez thus taken, cer-

tified as herein, sealed up, and directed to the clerk of the "district court of the United States of America for the district of Louisiana," "New Orleans, La.," the said sealed package being also indorsed "John W. Cannon, libellant, vs. The Steamer Potomac and J. N. Shunk, master, defendants, No. 9760," and deposited the same in the post-office at Natchez, Miss., this 28th day of January, A. D. 1873. (Postage paid.)

In testimony whereof I, said commissioner, have hereto set my hand at my office aforesaid, this 28th day of January, A. D. 1873.

J. HEWETT, SR.,
U. S. Com'r Southern District of Mississippi, at Natchez.

Claimant's testimony.

Testimony taken by consent at the office of Alfred Ingraham, commissioner of the United States, No 61 Camp street, in the city of New Orleans, on the 18th day of April, 1872. R. Marr, esq., representing libellant; Given Campbell, esq., representing claimant.

83 John M. Ault, of lawful age, a witness on part of the claimant, being produced and sworn, deposes and says:

JOHN M. AULT, sworn for libellant, says:

Q. Where do you live?

A. I live at Gibson's Landing, Concordia Parish, La.

Q. Were you on the R. E. Lee at the time of the collision with the Potomac?

A. I was.

Q. In what capacity?

A. I was a passenger on her, going up home from Natchez.

Q. Where were you at the time the collision occurred? At what part of the boat?

A. I was standing out just in front of the door that goes out of the cabin, holding to one of the stanchions of the guards.

Q. Do you recollect which side of the Lee you were standing?

A. Yes; I was on the left-hand side—the side she was struck on.

Q. We call that the larboard among steamboatmen——

A. Yes; I believe so.

Q. What time did you get out there in front of the door?

A. There were three gentlemen standing talking; they were talking together; my face was at the door; I saw this boat coming when she come, and I saw she was sort of turning around. One of the gentlemen opened the door and we stepped out; he run back. The
84 boat was going to strike and I caught hold of the guards; she swung clear around against the side of the boat; I read her name some time before she struck; she had turned around so much before she struck that I could read her name plainly from the lights of the Lee.

Q. Her name on what?

A. Sir?

Q. Where was the name written that you read?

A. On her wheelhouse.

Q. She is a side-wheel boat, the Potomac?

A. Yes.

Q. How far were the boats apart at the time that you could read her name?

A. I judge about fifty or seventy-five yards—perhaps one hundred.
Q. Did you hear any whistle of the Lee before the collision occurred?
A. I did not.
Q. You were down stairs at the cabin door?
A. I was inside the cabin door, and the door was shut.
Q. Did you hear any signal bells ring of the Lee?
A. Yes; I heard two bells ring twice, once for to stop her I judge; I don't know whether it was that or not, and the other to back her; she was backing when the other boat struck her.
Q. Have you any idea how far above the wharf-boat at Natchez the two boats came together?
A. About three-quarters of a mile, I think; about opposite to Brown's saw mill.

85 Q. When you got hold of the stanchion—went out there and got hold of the stanchion just before the collision occurred, did you notice which way the Lee was pointing—did you notice the shores?
A. Yes; I could see the shore; could see the land, and see the way she was running.
Q. Which shore did you see?
A. The Mississippi side.
Q. You saw the Mississippi side?
A. Yes; the right-hand side.
Q. Could you tell how the Lee was heading at that time?
A. I could not positively; but I think she was running her usual course, heading, if anything, more towards the Mississippi side than she was to the other—going about her usual course—I noticed that.
Q. How far do you think she was from the Mississippi shore—have you any idea?
A. No; I couldn't judge.
Q. I will ask you what I might have asked you at first; what is your occupation?
A. My occupation is gin-wright.
Q. What parts of the two boats came together?
A. Their bows; the Potomac's bow ran right into the Lee's under the guard.
Q. The Potomac's bow ran right into the Lee under her guard?
A. Yes.
Q. On what side?
A. The left hand side—the larboard.
Q. That was the side you were standing on?
A. Yes; the same side; I was looking right down on them almost.

86 Q. Did you notice whether the Potomac's engines were going or not at that time?
A. I heard her bells; I don't think she was over fifty yards from her when her bells, I think, were rung to stop; I heard it, but I couldn't——
Q. You heard her bells rung?
A. Yes; heard her bells rung.
Q. (by proctor for claimant.) Heard whose bells?
A. The Potomac's.
Q. After the collision, what became of the Lee?
A. After the Potomac crossed her bow, they turned her in and run her over to the Louisiana shore, on the bar, and beached her.

Q. Do you know whether she grounded on the bar below or above the place at which the collision occured?

A. It was nearly opposite, I think; if anything, a little above.

Q. Did you stay on the Lee until the next day?

A. No; I found I couldn't do anything after her hog-chain broke. The tug came over; I got on it and went over to Natchez and staid all night.

Q. Did you see, afterwards, where the Lee lay on the bar?

A. I did; but I never paid particular attention to it. I afterwards came up, and was on her when the other boat came and took her freight off. Came up on the other boat, the Grand Era.

Q. You saw, then, where she lay?

A. Yes; I was also on the Grand Era when they raised her and she floated.

87 Q. The place where she lay on the bar you think was about opposite the place at which the collision occurred?

A. Yes.

Cross-examined:

Q. Did you come down here expressly to give your testimony in this case?

A. Yes.

Q. At whose instance?

A. The captain. Well, Captain Cannon first told me that the captain wanted my evidence. He asked me if I could get off and come. I told him I could.

Q. Were you paid to come down here?

A. I was not.

Q. Your way was paid, I suppose?

A. Of course. I havn't asked; but I havn't paid it yet. I boarded on the boat; staid on the boat.

Q. Have you traveled much on the river?

A. I have; a great deal, up and down. I was born and raised in Natchez. I generally travel once a month, or more.

Q. Was there a bright light in the halls of the Lee that night?

A. Yes.

Q. How was the night outside, dark?

A. Pretty bad; cold and chilly.

Q. How far from the hall door of the Lee were you standing when you were talking to these gentlemen?

A. About as far as from here to that chair.

Q. Three or four feet?

88 A. I could stand and reach the door with my hand.

Q. About three or four feet, I suppose?

A. Yes.

Q. Who were the other men you were talking to?

A. Burton and—I don't know the other gentleman's name.

Q. You heard the Lee's bells ring while you were inside the door?

A. No; yes; the first bell, just as I opened the door; the next bell rung after.

Q. You came outside?

A. I got hold of the stanchion.

Q. When you got hold of the stanchion, how far was the Potomac from you?

A. I suppose about twenty feet, or thirty.

Q. How long from the time you went out of the door before you heard the bell ring of the Lee?

A. Of the Lee?
Q. Yes.
A. Just as I got hold she was backing.
Q. How many seconds?
A. I couldn't say; I was too badly frightened to think about the time.
Q. Did you hear any whistle from the Potomac?
A. I did not. I did not hear a whistle from either of the boats.
Q. You say you looked out of the door, or looked through the door?
A. Yes.
Q. And saw the Potomac?
A. No; I saw her before she run into us.
89 Q. You saw her through the glass?
A. Yes; the glass door.
Q. Can you stand inside the hall of a steamboat that has a brilliant light burning, two or three feet from a glass door and see anything outside?
A. I can see a bright light outside, on a dark night, as well as I could in the day time.
Q. Could you tell the direction the light was going?
A. I think I could; if I knew the direction the boat was going.
Q. Could you tell the direction of the boat, though?
A. I couldn't tell. If I knew the direction of the boat, I could tell you the direction the light was going.
Q. Could you tell the direction of the boat by looking through a glass window, two feet from it?
A. No.
Q. You could not?
A. No.
Q. You don't know the direction of the Potomac when you started out of the door?
A. No; not at all.
Q. You saw her lights dead ahead, or where?
A. No; a little one side. I know I come out, and as soon as the light off the Lee struck her I could read her name.
Q. What direction was that light on the Potomac when you looked out?
A. It was on the left-hand side.
Q. It was to your left?
90 A. Yes.
Q. Which side of the river was the Lee on?
A. She was on the right-hand side.
Q. How near to the shore?
A. I couldn't see the distance. I know she was nearer to that shore than she was to the Louisiana shore, a great deal.
Q. You say she was heading in towards that shore?
A. Yes; I think she was more on the Mississippi shore than she was on the Louisiana shore.
Q. You don't know the course she was pursuing before you looked out?
A. I do not.
Q. You don't know the course she pursued after she left Natchez?
A. No.
Q. All you know is that when you went out you saw the two boats close together?
A. I saw them together.

Q. The Potomac struck the Lee's bow?
A. Right in under the left-hand side.
Q. Did you then notice the river bank on either side?
A. Yes. I was looking for a place to get out at.
Q. How was the Lee heading at that time?
A. Her head was more towards the Mississippi shore.
Q. Quartering in towards that shore?
A. Yes.
Q. All you know about the accident is what you saw after you went out?

A. Yes; the accident happened after I went out of the door.

91 Q. What bells did you hear just as you started to go out of the door?
A. The engineer's bell.
Q. Do you know what that bell was?
A. No.
Q. Was that the first bell you heard?
A. Yes, sir.
Q. You immediately went out of the door?
A. I immediately went out of the door.
Q. Just as you got to the stanchion you heard one or more bells?
A. I heard two bells.
Q. Heard two bells from the Lee?
A. Yes.
Q. Then the boats, you say, were twenty-five or thirty yards apart?
A. Yes; something like that distance. I saw it was imminent that they would come together at the time.
Q. How far was the Potomac off when you heard her bells?
A. About as far as from here across the street; about that distance; not as far. It is further on water than it looks to be.
Q. About how many yards?
A. About fifty or sixty yards; not further than that, I shouldn't suppose.
Q. Would you be willing to swear positively that at the time this collision took place the Potomac was not in her proper place?
A. I believe I could.
Q. Wasn't it a very dark night?

A. Yes; I have seen many darker ones.

92 Q. Don't you know that a man on board of a steamboat, in an emergency of that kind, is liable to be mistaken?
A. Yes; I suppose so.
Q. You say the Potomac struck the Lee head on, right under her quarter?
A. Yes; the side of her.
Q. Her left side?
A. It looked like she was turned around, trying to turn around, or something.
Q. Looked to you that way?
A. Yes.
Q. Suppose the Lee had been turning across the river, wouldn't it have had the same appearance to you at that time?
A. No; because I could see across the bows—see the cabins along the Mississippi side.
Q. What angle was the Lee heading in towards the left-hand shore when the boat struck?
A. When the boat struck?

Q. Did it appear like she was trying to get out of the way of the Potomac?

A. It appeared more like she was backing.

Q. You think she was backing?

A. Yes.

Q. How do you know she was backing?

A. I could see from her wheels where she was throwing the water forward.

Q. You could see that?

A. Yes; I could see that from the light.

Q. What stanchion were you holding on to at that time?

A. The one that supports the guards up.

93 Q. How far is that from the edge of the guards?

A. It is right on the edge of the guards.

Q. Hasn't the Lee got an outside guard outside of her rail?

A. That was below; yes.

Q. Were you looking over those guards at the time?

A. Yes.

Q. Right over the guards?

A. Yes; over the cabin guards.

Q. Did you remain, looking there all the time?

A. No; not after she struck, I didn't. I went below to see the damage.

Q. Pretty badly scared, were you not?

A. Yes; tolerably scared.

Q. You could see the bubbles in the water?

A. Yes.

Q. How high were the Lee's guards above water?

A. I couldn't tell you.

Q. What lights were there that enabled you to see the bubbles in the water?

A. I could see it from the lights from the two boats; both had lights in their boilers, the boiler doors thrown open.

Q. You could see the bubbles from their boiler doors?

A. Yes; from that light.

Redirect examination:

Q. Is your recollection distinct as to whether you looked out and saw the Mississippi shore?

A. Yes.

Q. Had you any object in looking for that shore?

A. Yes.

94 Q. What was your object?

A. To see what chance there was to get to shore; which shore was best to get to.

Q. You didn't leave the place where you stood holding the stanchion until after the boat struck?

A. No, I did not; I then immediately went below.

Q. When you went out there and were able to read the name of the Potomac on her wheel-house, were the fire doors of the Lee open?

A. Yes; it was from that light I could see them.

Q. Did you notice whether the fire doors on the Potomac were open or not?

A. I couldn't see. She had a big lot of freight in front. I couldn't see.

Q. Are you sure you saw the bubbles on the water from the backing of the wheels of the Lee?

A. I took it to be so.

Recross examination:

Q. Which shore would be the Mississippi shore?

A. The right-hand shore——

Q. Then you stood on the larboard side of the Lee, hanging on to a stanchion, leaning over looking down at the water, when you were looking out, to see which shore you would go to, did you?

A. Yes.

Q. You then looked clear across the Lee's deck and saw to the larboard shore to see whether that was the closest *on* the other?

A. Yes.

Q. Why didn't you go over to the starboard side of the Lee?

95 A. I had a good hold, and I wanted to hold on to it.

Q. Couldn't you see better from the starboard side?

A. I don't know that I could; because I was raised there, and knew every spot of the land around there; I knew both sides; I could tell the distance those cabins were along there, and could tell what my distance was.

Q. Wouldn't it be natural for a man under those circumstances to go over to the other side of the boat and see which would be the closest side?

A. No.

Q. It would not?

A. No.

Thomas Barry, a witness of lawful age, witness for claimant, being sworn, deposes and says:

THOMAS BARRY, sworn for libellant, says:

Q. What is your occupation?

A. My occupation is a blacksmith by trade.

Q. Were you on board of the Lee at the time of this collision?

A. I was.

Q. What were you doing there?

A. I was acting as second engineer——

Q. What engine were you standing at?

A. I was standing at the starboard engine.

Q. What business are you engaged in now?

A. I am an engineer now.

Q. What boat are you on?

A. The John T. Moore——

96 Q. First or second engineer?

A. First engineer.

Q. When did you get your license as an engineer?

A. I got them out before the war.

Q. You said a little while ago you were a blacksmith?

A. Yes; that is my occupation—my trade; I make a living now at engineering.

Q. You got your license out as an engineer before the war?

A. Yes.

Q. How long have you been an engineer on steamboats?

A. I went to engineering in 1846.

Q. Been keeping it up ever since?

A. Yes, generally; in the summer time when the boats leave I work in the shop, until I was with Captain Cannon, and he kept me at work all summer.

Q. You stated you were at the starboard engine?

A. The starboard engine.

Q. How long after you left Natchez that night, the night of this collision, was it when you heard the engine-bells ring?

A. Well, sir, I believe it was probably fifteen minutes; may be a little more; I couldn't say positively.

Q. What bells did you hear? What were the first bells you heard after you left the wharf-boat at Natchez?

A. It was the stopping bells.

Q. What bells were rung after that?

97 A. The backing bells were rung after that.

Q. How long after the backing bells did they ring the stopping bells?

A. As fast as they could ring them; immediately.

Q. What did you do?

A. I shipped up and went to backing.

Q. Did you leave your foot-box at all?

A. Yes; I had just got on the foot-box when the bell rung to stop the engine.

Q. When the bell rang to stop the engine you were standing on the foot-box?

A. Yes; I was getting upon it.

Q. How do the engines of the Lee back?

A. Very well.

Q. How did they back that night?

A. Remarkably well; same as usual.

Q. How do the Lee's engines handle?

A. They handle very well; very quick and very easy.

Q. Did you feel the shock from the collision?

A. Yes.

Q. Have you any idea how many back revolutions the engines of the Lee had made before the collision?

A. I think she made nearly five; about five; along there somewheres.

Q. How had you been running after you left Natchez?

A. We had been running at a moderate gait—not full speed.

Q. Have you any idea, running at the speed you were after

98 you left the wharf-boat at Natchez, how many back revolutions it would take to check the Lee's headway and give her sternway?

A. Yes; it would take from four to five revolutions. I think four revolutions ought to check her. It has done it at ordinary landings frequently—sometimes not that many.

Q. Are you able to state whether the Lee was going ahead—had a forward motion—or was resting at the time this collision occurred?

A. Well, I couldn't state, I don't think; from the number of revolutions she made, I think she was about on a stand. I don't think she was going ahead any; she could not have been, although I couldn't say; I didn't notice; I hadn't the time.

Q. Did you pay any attention to see which shore the boat was nearest to when the collision occurred?

A. No, I did not; only in leaving the wharf-boat and that was probably a mile or nearly a mile below where the collision occurred. In leaving the wharf-boat we had to go out past the coal boats to get away from the wharf-boat; and then what course they pursued I don't know, because I was attending to business; I didn't notice.

Q. Did you go out of the engine-room after you left Natchez until the collision?

A. I went under the boilers and blowed the mud out; that was the reason I didn't give full speed; I had a little too much water and wanted to get it out. I had nearly got to the foot-box, within one step of the step, when the bell rung to stop her.

Q. Did you hear the whistle of the Lee that night at all?

A. No.

99 Q. Can't hear it very well from the engine-room?

A. I couldn't have heard it if it had blowed, because the mud valve makes so much noise I couldn't have heard it.

Q. You were blowing off the mud valve?

A. Yes.

Q. Didn't your mud valve make a good deal of noise?

A. Yes, right smart noise; as much so as the whistle, if not more.

Q. If I understand you, from the time you left Natchez until that collision occurred, you were not out in a position where you could see the shore?

A. No; I was not; our business is so that after leaving a landing we can't go out; we have to straighten up and get everything fairly under way.

Q. Did you see the Potomac at all until after the Potomac and the Lee came together?

A. Not until she swung alongside.

Q. What part of the Potomac hit the Lee?

A. I should judge the bow hit her from the appearance.

Q. What part of the Lee was struck?

A. She was struck on the larboard side between ten and twelve feet from the stem, as near as I could judge—between seven and twelve feet—I never measured it.

Q. After the collision what handling was done to your engines—what was done to your engines?

A. We bore back and straightened over to the bar, as near as I could judge, made for the bar.

Q. Did you keep on going until the boat grounded?

A. Yes.

100 Cross-examined:

Q. You gave your testimony before the inspector, did you not?

A. Yes.

Q. In this collision?

A. I did.

Q. Don't you usually hear the whistles of the Lee?

A. Sir?

Q. Can't you usually hear the whistles of the Lee?

A. I can usually, if I am out on deck, paying attention to it.

Q. Don't you usually hear them in the engine-room?

A. I do sometimes when I am not making any noise; that is the reason I didn't hear it; I was blowing out. I was under the boilers.

Q. How long before that collision occurred, did you back your engines?

A. How long before it occurred?

Q. Yes.

A. I suppose it might have been probably half a minute or three-quarters; I was backing the engines when I heard the shock, when they came together.

Q. Did you count the revolutions on the Lee?

A. No; I didn't count them.

Q. Can you swear positively as to the number of revolutions she made?

A. I could not swear positively, but, as near as I could judge, they made either four and a half or five. I knew that she was backing right smart. I didn't know what the matter was; only I knew
101 there was something wrong, on account of stopping and backing; that was, in my judgment.

Q. Do you know what course the Lee took after she left Natchez?

A. No, not after she got straightened up.

Q. When she started from Natchez?

A. When she started from Natchez, she headed out to get clear of the coal-boats.

Q. She was heading towards the other shore?

A. Yes, of course, to get clear of the coal-boats. There were four or five coal-boats right abreast.

Q. Do you know whether she changed her course?

A. I don't know. I suppose it was rather——

Q. You needn't suppose.

A. No; I am not a pilot; I don't know the river; for that reason I didn't watch it.

Q. Didn't you testify before the inspectors that when leaving Natchez, "we headed for the bar and run up the edge of the bar, the usual distance off"?

A. I don't think I gave that testimony. I gave them, that the boat headed out for the bar to get out of the way of the coal-boats.

Q. You didn't testify that?

A. That was my object when I gave the testimony.

Q. You didn't make that testimony before the inspectors?

A. I told them exactly what I tell you now—that we had to head out to the bar to clear the coal-boats—after leaving the wharf-boat.

Q. Didn't you swear to this testimony before the inspectors. I
102 will put the words to you: "When leaving Natchez, we headed for the bar, and we run up the edge of the bar, the usual distance off"?

A. Yes; we headed up the bar.

Q. I will repeat the question. Didn't you swear to this testimony before the inspectors. I will put the words to you: "When leaving Natchez, we headed for the bar, and we run up the edge of the bar, the usual distance off"?

A. My testimony was, that the boat headed from the wharf-boat towards the bar, to get clear of the coal-boats. I specified coal-boats when I gave in my testimony.

Q. Was the testimony that you signed down there true and correct?

A. If it is that way it is not.

Q. Was the testimony you signed and swore to, down there, true and correct?

A. I don't know. If it is the way you have read it, it is not. I would not take an oath that the boat pursued the course up the bar, when I didn't see it.

Q. At any rate, she headed towards the bar when she left Natchez?

A. She headed out to clear the coal-boats. After we left the wharf-boat, and got straightened around, I attended to my business; I left the foot-box.

Q. Did you see the boats before they came together?

A. No; I did not.
Q. You don't know the course of either boat?
A. No.
Q. Do you know whether the Lee backed on both sides or not?
103 A. Yes; she did.
Q. At the same time?
A. Yes; nearly about the same time.
Q. Who was on the other?
A. One of the assistant engineers, who stood watch with me, backed the other engine.
Q. Did you look out after the collision?
A. No; I did not. I was kept on the foot-box until some time after they got on the bar. I staid on the foot-box waiting to get orders.
Q. You never left the engine-room?
A. I never left the engine-room.
Q. Until the Lee ran on the bar?
A. Until she got on the bar, and then I waited, expecting. Then I went out and looked out.
Q. That was some time after the collision?
A. Yes; the boat had backed down, and then run off on to the bar, where she sunk, before I left the engine-room.
Q. Could you see out of the engine-room the course of the boats?
A. No; I could not.
Q. Your name is Thomas Barry?
A. Thomas Barry; yes.
Q. How did you come to testify in these words, before the inspectors, if you didn't know anything about that. I give the words: "I noticed that a little after the collision the boats were heading towards the Natchez shore, at an angle of about thirty degrees up stream, with her starboard bow to our port bow"?
A. Well, that was the position she was in after she was struck.
104 Q. After who was struck?
A. After our boat was struck.
Q. How do you know that was her position?
A. I know from the way I handled the engine.
Q. You didn't look out and see?
A. I looked out on my side—the starboard side—the Mississippi side.
Q. What direction were both boats heading then?
A. Our boat looked like she was heading towards the Mississippi shore.
Q. At what angle?
A. I suppose, probably, thirty or thirty-five degrees.
Q. How was the Potomac heading?
A. I didn't see the Potomac; she was on the opposite side from where I stood.
Q. How did you testify then that both boats were heading towards the Natchez shore?
A. I didn't see the Potomac until she swung around on our larboard side, between us and the bar.
Q. How far were you from the Mississippi shore at the time of the collision?
A. I couldn't judge.
Q. You never left the foot-box of your engine until she grounded?
A. No.

Q. Could you stand on the foot-box of the engine and see the direction of the Lee, on a dark night?

A. It wasn't so very dark; I could see the hills on the Natchez side.

Q. That was about all you could see?

A. Of course, I couldn't judge of the distance from where I was.

105 Q. You couldn't judge the direction either from the engine-room?

A. Perhaps I could; I could tell the range of hills running up and down the river, whether I was going to them or not, and the angle I was to them.

Q. That was the way you gave your testimony about it, from what you saw in the engine-room?

A. From what I saw from my side; the other side I don't know anything about.

Q. Do you know whether the McGill passed up ahead of you that night?

A. I think she did.

Q. How long before you left Natchez?

A. I have no idea, but it was not a great while; I don't think it was over an hour or half an hour.

Q. You didn't think it was quite so long when you gave your testimony before the inspectors?

A. Well, I don't know.

Q. They have got you down here ten minutes.

A. Ten minutes?

Q. Yes.

A. If it was ten minutes, I didn't know exactly the time; I don't know it yet; I was just judging as to the time. I know the McGill was there and left ahead of us; I know she was ahead of us a little before we left.

Q. At what rate of speed was the Lee running that night?

A. I think I had about 105 or 110 pounds of steam.

Q. At what rate per hour?

A. I don't suppose she was making over eight miles—seven or eight miles at that time.

106 Q. How far was this above the wharf-boat?

A. I judge it was about a mile, as near as I could judge—pretty close to that.

Redirect examination:

Q. When did you read over for the first time the testimony that was taken down before the inspector?

A. When did I do what?

Q. When did you read the testimony that was taken down by the inspector?

A. I never read it.

Q. You never read it?

A. Never have.

Q. Are you sure that in giving that testimony you stated that the Lee held out in order to clear the coal-boats?

A. My object was when I told them—it appeared like they were all in confusion—they would not let me tell what I knew. My object was to tell them the position the boat left the wharf-boat; after she left the wharf-boat I didn't watch her course, and couldn't swear.

Q. How far do the coal-boats extend?

A. They are right close to them—within thirty or forty feet sometimes.

Q. How high up the river do they go?
A. What—the Lee?
Q. No; the coal-boats.
A. They extended up, I suppose, may be a quarter of a mile—big boats and little ones.
Q. After leaving the wharf-boat at Natchez you are obliged to hold out in order to clear those coal-boats?
107 A. Yes; always. Sometimes we have to back down below the wharf-boat to get out. I wouldn't pretend to take an oath what course the boat pursued after she left the wharf-boat, because I was not looking. It was none of my business. Of course I wouldn't attend to it.
Q. When you noticed the Mississippi shore for the first time after leaving Natchez it was after the collision had occurred?
A. After the collision; yes.
Q. You know nothing of the position of either of those boats until after the collision?
A. After the collision; that was my object to state.

JAMES O. NIXON, Jr., of the city of New Orleans, being sworn, deposes and says:

I took down the testimony of John M. Ault and Thomas Barry on the eighteenth day of April, 1872, at the office of Alfred Ingraham, commissioner of the United States, No. 61 Camp street, in the city of New Orleans aforesaid, in stenographic notes, and that said stenographic notes contain strictly and literally all the testimony of said John M. Ault and Thomas Barry, and the foregoing sixty-four pages contain the true and complete transcript and copy from said notes of the testimony of the said John M. Ault and the said Thomas Barry.

J. O. NIXON, JR.

Sworn to and subscribed before me this 25th day of April, 1872.

ALFRED INGRAHAM, [SEAL.]
Commissioner of the United States.

108 Testimony taken by consent. New Orleans, January 28th, 1873. Present, R. H. Marr, esq., proctor for libellant; Given Campbell, esq., proctor for respondent.

WILLIAM CAMPBELL, sworn for libellant, says:

Q. Were you on the Lee at the time of the collision with the Potomac?
A. I was.
Q. Where were you from the time the boat left Natchez?
A. Well, sir, shortly after the boat left Natchez, I was sitting in the hall, in the forward part, by the water stand.
Q. Who was with you there?
A. Well, I don't exactly remember, but there were two or three gentlemen there and myself talking.
Q. Did anything occur to attract your attention?
A. Nothing, until shortly after we left Natchez. Something that drew my attention was the blowing of the whistle, and the ringing of the bells shortly after the whistle.
Q. What whistle and bells?
A. Of our own boat. The first thing was the whistle of our own boat. We didn't pay much attention to that. Shortly after that the bells rung. Capt. Cannon was sitting at the stove. I was in the forward part of the hall, and I jumped up. We both run out on the boiler

deck. The whistle, of course, was an alarm. Of course, when they rung the bells we were always on the lookout. We both run out
109 there, and he remarked—I asked him what that was? He says "That is a steamboat; we are both sunk." With that he run upon the hurricane roof. I was standing on the larboard guard, just aft of where she come into us. I didn't know what the danger was. I run also.

Q. Which way did you go?

A. I run aft, towards the barber-shop. He run up on the hurricane roof.

Q. Which side of the boat was the barber-shop on?

A. On the larboard side.

Q. You were on the same side?

A. Yes, sir; though he run to the starboard stairs to run up on the roof.

Q. Which way did the other boat bear from you?

A. Her appearance when we came out there, she was on the larboard side. We run out of the larboard door. As we run out of the door she was then quartering to us.

Q. On the larboard?

A. On the larboard side.

Q. Did you observe which way the Lee was heading?

A. To the best of my knowledge and recollection, she was up and down the river, as near as I can tell. It was a dark, hazy night; windy, etc.

Q. Did you observe either shore?

A. Not particularly.

Q. How far do you think the other boat was off from you at the time you went out on the guard?

A. I expect she was three hundred yards at least; fully that, because it was some few minutes; that is, a minute or two, before she struck.

110 Q. How far aft had you gotten when the boats came together?

A. We stood there. Capt. Cannon remarked, "My God, we are both sunk." As he run up on the boiler deck, I run to the barber-shop. When I got back that far—may be a little further, by the wheel in the gangway—they came together. After they came together I came out. The Potomac rounded to after striking us. It looked to me as though it was a square lick into our larboard side. It must have been, or she would not have rounded to.

Q. Which way did her head point after she rounded to after the blow?

A. She came quartering, just as though she was rounding to to the wharf-boat or some place of that kind; that is as near as I can tell, because if she had struck us a slanting lick or a forward lick she would have kept on going down the river; but she rounded to.

Q. She swung?

A. Yes; to the best of my knowledge, she did.

Q. Did you observe how near you were to either shore at the time this collision occurred—after you got back?

A. No; I don't think that I did. Probably—of course I was some little excited, and didn't pay any particular attention to that.

Q. After the injury to the boat, what was done? After the collision, what was done on your boat?

A. I heard Capt. Cannon hollo*a* to the pilot to hold her over to the bar. We straightened up, and run her over to the bar.

111 Q. Have you any idea how much time you were in getting over to the bar?

A. I couldn't say, indeed.

Q. Had you been about the cabin most of the night, that night?

A. Yes. I don't remember whether I had been to bed or not; but if I had been to bed previous to getting to Natchez, I always get up again. Maybe I had not been to bed at all; maybe I had been up two or three hours, I don't remember which.

Q. Have you been in command of any boat in this trade between New Orleans and Vicksburg?

A. I have. At the time that occurred, I was steward on the Lee. Since that I have been captain of several boats.

Q. Do you know whether boats are navigated now at Natchez as they were at the time this collision occurred?

A. To the best of my knowledge I believe they are.

Q. Have you ever made any attempt to see how much of the light of Natchez one could see standing on the larboard side of a down-stream boat, from the larboard side of the texas of a down-stream boat?

A. In the position that we were in—the position that I had her about—she was just as likely to take us for the wharf-boat as anything else, perhaps more so. In my own experience—and I have been steamboating between Vicksburg and Natchez for twenty years, in different capacities—I have often been mistaken in the lights. This trip, coming down, I was mistaken on two or three occasions, in
112 just such a night. For instance, a light might be, maybe a mile below another, and I have taken the wrong light for the right one. It is a thing in my experience, is liable to happen to anybody, and very probably our collision occurred in that very way. In coming around the point at Natchez, we were about—say, in turning the point, which is a short one, there is nothing more likely to me than that she might have mistaken our boat for the wharf-boat, and especially on the larboard side, for he didn't have a good appearance on the top of the texas; he couldn't see the wharf-boat for our texas then, if there was a light on it.

Q. Have you observed how a boat, coming that point on the Mississippi side, about two miles or such a matter above Natchez, how her stem is held, what she bears on, coming down the river approaching Natchez?

A. In the first place the point is very short, and the next object, after turning the point, she ought to bear on the wharf-boat.

Q. She ought to bear on the wharf-boat?

A. Yes; I think so. It is more likely that a man will always, on a dark, hazy night, bear on a light quicker than anything else, because he can see it easier. The first thing that he turned the point, he would look, of course, for the light, some place along in that direction; because his business more naturally would cause him to stop at Natchez; consequently he would look for a light there.

Q. When a boat is coming down the river, from which side of the boat can you see the light at Natchez?

113 A. You can see them better on the starboard side, as far as that is concerned. I am no pilot, as far as that is concerned. Capt. Cannon, of course, is more experienced than I am there.

Q. If the Potomac, when you first saw her was on your larboard side, which shore was—how were the boats?

A. The way she was coming then, she was between us and the Louisiana shore.

Q. Did she ever get on the other side of you—between you and the Mississippi shore?

A. Not to my knowledge; no, sir. After she left us, she might have got there.

Q. After this collision, did you, at any time, examine the cut into the Lee, and see what sort of a cut it was? Describe it.

A. It looked to me to be a square cut; not a glancing one. It looked to me to be square into her keelson.

Q. Where did she strike, exactly, on the Lee?

A. Right under the bitts.

Q. What was the shape of the wound in the Lee?

A. It looked just exactly like a steamboat's bow had run into us, as near as I could guess. Knowing it was a steamboat, of course I couldn't otherwise say.

Q. You say you were about the cabin?

A. I was sitting in the forward part of the hall.

Q. In the Lee, that night?

A. Yes, sir.

Q. Did you notice Pierce at all, that night—the pilot of the boat?

114 A. Well, yes; I had seen him around the hall the evening before. Of course, we come in contact together occasionally.

Q. How long have you known Pierce?

A. About twenty years, I reckon.

Q. Is he still engaged on the river as a pilot?

A. Yes, sir.

Q. What boat is he on?

A. The Pargoud.

Q. Did you notice whether Pierce was drunk that night or not?

A. I did not. He might have taken a drink or not, for all I know; as men generally do, when they feel like it.

Q. Have you ever seen Pearce sufficiently under the influence of liquor not to be able to attend to his business?

A. I never saw him drunk in my life. I know him to take a drink whenever he feels like it. I never saw him drunk.

Q. Have you any means of knowing whether the engines of your boat were in motion or not, at the time this collision occurred?

A. That is the time that I told you I jumped up, when our engine bells rung to stop; that alarmed me, as it does now. If I am lying in bed, and if I hear the whistle, and shortly after the bells, I jump out of bed. It is a presentiment that happens to a person having a responsibility on him. When the whistle blew, and the bells shortly after rung, of course I jumped up and looked out. I always, generally, do that.

Q. At any time did you observe whether your engines were in motion or not, after you went out?

115 A. I was somewhat excited; I don't know that I could; but, as a matter of course, the bells were rung, and the engines would answer them, of course; and, to the best of my knowledge, we were backing at the time the collision took place.

Q. Have you any idea how much time it took, after the collision, to get the boat over to the bar, where she sunk?

A. Yes, sir; it took some little time; but I couldn't exactly tell you. Naturally the boat would knock us around out of shape.

Q. How long did you remain in that place where you sank?

A. It was Wednesday night that we sunk; about twelve o'clock, or

in the neighborhood of that. We laid there Thursday and Thursday night. I believe it was Friday morning or Saturday.

Q. You were there about two days?

A. I think so.

Q. While you were laying there, did you observe Brown's saw-mill on the other side of the river?

A. Yes, sir.

Q. How far were you above or below that?

A. I didn't measure the distance; but we were very closely to it.

Q. Do you recollect whether you were above it or below it?

A. I can't really answer that; we laid immediately opposite; may be a little below; may be a little above.

Q. Very near opposite?

A. I think so; yes, sir.

Q. Do you recollect to have noticed the court-house in Vidalia.

116 A. I do not.

Q. Were you above or below the point on the Louisiana side?

A. We were below the point.

Q. Have you any idea how far it was to Natchez, to the wharf-boat at Natchez, from where you sunk?

A. In the neighborhood of a mile; may be a little less; may be a little over

Q. In the neighborhood of a mile?

A. Yes; I think so, to the best of my knowledge.

Q. How long was the Lee detained here in New Orleans, undergoing repairs?

A. Wednesday that we sunk—that is Wednesday night that we sunk—we left on that Tuesday, from that point, up to the time we left, previous to the sinking, up to the time we left here was three weeks to a day. We sunk on Wednesday night. We left on Wednesday evening, three weeks afterwards.

Q. You have spoken about the larboard and starbord side of the boat in coming down the river, which side of the boat is to the Natchez shore?

A. The starboard side is to the Natchez shore.

Q. Do you think a person standing on the hurricane deck of a boat coming down, say about the middle of the texas, could see the lights on the Natchez side when a boat is coming down better that he could if he was standing on the other side?

A. He couldn't see the Natchez light from the larboard side at all, middle way of the texas, for the texas would hide him from it.

117 Q. When you say the larboard side there, you mean the side that was towards Natchez, or the side that would be towards the Louisiana side?

A. The side towards the Louisiana side would be the larboard side; if he was middle way of the texas, of course he couldn't see much on the Mississippi shore; but if he was on the starboard side——

Q. That is, you mean, if he was on the side next to Natchez?

A. Yes, sir; of course.

Q. But if he was standing on that side of the boat?

A. If he was standing on the larboard side, above the point, round to the bend, he could see the wharf-boat; but if he was down where we struck together, I don't think he could see the Natchez wharf-boat, if he was on the larboard side, half-way between the texas.

Q. When you say larboard side there, you mean that side that is towards the Louisiana shore?

A. Yes, sir.

Q. Have you tried that experiment yourself?

A. Well, I don't know that I ever tried it particularly; but natural sense would teach me to know that.

Q. You say in your testimony, that during that night, you had seen Charles Pierce about the cabin?

A. Yes, sir.

Q. How many times did you see him there after the boat left Natchez before the collision occurred?

A. I hadn't seen him any time after we left Natchez?

118 Q. All that you saw of Charlie Pierce was before the collision, and while the boat was laying at Natchez?

A. Probably I seen him around Natchez. It is generally the custom when men are off watch to be around the cabin. May be I saw him below Natchez. It is more than likely that I saw him about the cabin; but when a man is on watch, it isn't likely you see him about the cabin.

Q. Do you recollect having seen Pierce that night after the boat left Natchez?

A. I did not; not until after the collision.

Q. When you saw him after the collision, could you state whether he was drunk or sober?

A. I could; to the best of my knowledge he was not drunk.

Cross-examination by Mr. CAMPBELL, proctor for respondent:

Q. Who was in the cabin hall at the time you are speaking of, when Capt. Cannon was sitting at the stove, and you were in there?

A. Well, sir; I can't exactly now remember; I can tell you some——

Q. Let us have the names.

A. A gentleman by the name of George Weldon, who will be here next week; he was in the hall; that I remember distinctly.

Q. Who else?

A. I can't really remember now.

Q. You can't recollect anybody?

A. No; I don't think I can; I might, possibly, mention a good many that were there—may be I might be mistaken. I know there

119 were a good many gentlemen in the hall; I was talking to several; to save my life, I can't tell who I was talking to.

Q. Do you know whether Gus Watson was there?

A. I can't say; very likely he was.

Q. Reeve Lewis?

A. I think he was in there; yes, he was there.

Q. Captain Gould?

A. He was on the boat; whether he was in the hall, I can't tell; very likely he was.

Q. Do you know whether Tullis was in the hall or not?

A. He was on the boat; I saw him shortly after the occurrence took place; very likely he might have been there. I know him intimately.

Q. Whereabouts were you sitting?

A. In the forward part of the hall, by the water jar. I was with two or three gentlemen; to save my life, I can't tell you who they were.

Q. Whereabouts is the stove in the hall?

A. In the centre of the hall.

Q. How far is that from the door?

A. About half-way between. It is immediately opposite the office, if you know where the office of a steamboat is.

Q. How far is that from the door?

A. From the door where I was sitting?

Q. From the front door?
A. I suppose twenty feet.
Q. Not more than that?
A. It might possibly be more; as near as I can tell you; I never measured it.
120 Q. Who was Cannon talking to?
A. I can't tell you; but I remember distinctly he was sitting in the hall. His feet were on the stove at the time.
Q. You say the first thing that attracted your attention was a whistle?
A. Yes, sir.
Q. Whose whistle?
A. Our whistle.
Q. Then, what next?
A. Shortly after that the bells rung.
Q. How long afterwards?
A. I couldn't exactly tell you. I didn't have a watch out.
Q. About how long?
A. Probably a couple of minutes; a minute or something like that.
Q. Then what did you do?
A. I jumped up and run out, and Capt. Cannon did the same.
Q. What bells rung?
A. Our engine bells.
Q. Cannon run out the same time you did?
A. Yes. We both ran on the boiler deck. I believe we were the only two out there at that time—there might have been a dozen—but we run forward on the boiler deck. I said, "What is that?" He said "It is a steamboat."
Q. You say there were only two of you out there?
A. There might have been twenty there, but I don't remember of any else but us two there.
Q. You and Cannon went out at the same time?
121 A. Close together. We went out at the same door.
Q. Which went first?
A. I don't remember.
Q. You went out at the same door?
A. Yes, sir.
Q. Which door did you go out of?
A. On the larboard door.
Q. What do you call the larboard door?
A. Do you know the larboard and starboard side of a steamboat?
Q. I don't know that I do.
A. On the left-hand side of the boat, as you come out forward, is the larboard side.
Q. You went out of that door?
A. Yes, sir.
Q. Which side of the boat is the barber shop on?
A. The larboard side.
Q. The same side?
A. The same side.
Q. When you got out there, did you hear any whistle from the other boat?
A. I don't remember that I did. They might have blowed and me not hear it.
Q. Do you know what course your boat took after she left the Natchez wharf-boat?

A. I don't know. Of course she took up the river.

Q. Which shore did she run up?

A. I am no pilot. I didn't go out and look.

Q. You don't know anything about the usual way of running the river there?

A. Yes, I do. Oftentimes a boat will run up the Mississippi
122 shore; sometimes she will run the middle of the river. There is an obstruction on the Mississippi side that we always avoid; there's some hard lumps. We don't often get that close to run on them. We keep at the middle of the river—more so than into shore——

Q. Rather more on the bar, or on the Mississippi side?

A. Of course. We can keep to the Mississippi side and avoid these lumps.

Q. What is the usual course?

A. You can go close to the lumps or in the middle of the river.

Q. What is the usual course?

A. I suppose about the middle of the river is as good a way as any.

Q. Where is the deepest water there?

A. Right along the middle of the river, or close to those lumps is very deep.

Q. Whereabouts does the channel go?

A. Towards the Mississippi shore, of course; just close to those lumps.

Q. Is there plenty of water along that bluff bar above Natchez?

A. If you don't get too far on to it.

Q. It is a bluff bar?

A. No, sir.

Q. A shoal bar?

A. Yes, sir. That is, it goes off slanting. There's a bar makes off every point.

Q. Is that bar right across from Natchez a shoal bar or a deep bar?

A. Just naturally accrued, I think, as far as the *the* point. You make that bend there, and you can run close in to shore.

123 Q. How is the bar just below Brown's saw-mill?

A. That bar is a natural slope, from the appearance of it.

Q. Isn't the water deep over there?

A. Not in shore it isn't.

Q. What sort of water was it that night?

A. The river was tolerably low.

Q. You say you have had some experience. Are boats apt to sheer from a shoal bar or not?

A. They are.

Q. What was Pierce's watch?

A. The occurrence took place a little before twelve o'clock—probably in the time he was on—what is called the first watch—from six to twelve.

Q. That was his watch that night?

A. I suppose so; he was where——

Q. Was he at the wheel before you got to Natchez that night?

A. I judge he was. I don't know that he was; if it was before twelve o'clock, if he was not at the wheel, he should have been there.

Q. Saying that you got to Natchez before twelve o'clock——

A. Very good; then, if he was on the first watch, he was at the wheel.

Q. You don't know whether that was his watch or not—from six to twelve that night.

A. I should say it was, from seeing he was on watch when the boat sunk. I don't keep no run of watches, and only judge from the time that the man was at the wheel. It isn't likely that a man goes on before his time.

Q. You didn't see Pierce take any drink that night?

124 A. I can't remember that he did. He might possibly have taken two or three and I not know it. I can't bring anything to my memory positively, that he did or did not.

Q. Who was up in the pilot-house with Pierce?

A. I can't tell you, sir. I judge he had the steersman.

Q. Who was the steersman?

A. Joe Roberts.

Q. Where is he?

A. On the Lee now.

Q. Is he a relative of Cannon?

A. I believe he is a nephew.

Q. What is his age?

A. I can't exactly tell you. I suppose in the neighborhood of twenty. I don't know his age.

Q. Are you interested in the Lee?

A. Not a dollar.

Q. You have no interest in her at all.

A. None in the world; have as much interest in the Potomac as in the Lee.

Q. You have no direct or indirect interest in the boat?

A. Only in the welfare of the boat. I make my living on the boat. My whole soul and body are there. I don't get any profit or loss out of the Lee.

Q. I had heard that you had some interest in it?

A. Only good feeling to her. Since I am captain of the Lee, I take as much interest in her as an owner. I hope I do anyhow.

Q. What were you at the time?

A. I was steward on her.

125 Q. Did you see the Potomac before you went outside?

A. I did not.

Q. Could you have seen her from the inside?

A. I don't know that I could.

Q. What sort of a night was it—pretty dark or clear?

A. It was not really a dark night that we had to lay by, or that anything should occur; it was a little blustering night—hazy, you might say.

Q. Was there any moon that night?

A. I can't tell you. I don't know that there was.

Q. Cloudy?

A. More so, probably, than anything else; it was a cold night; the wind was blowing pretty fresh.

Q. Can you swear positively as to the direction a boat was going at night in the Mississippi River three or four hundred yards off?

A. Can I swear positively?

Q. Can you swear positively the direction she was taking three or four hundred yards off?

A. If I was out and observing in the position we were, I could.

Q. You said the Lee was backing. Do you mean that she was backing her engines, or going back?

A. That she was backing her engines. Whether she was going back or not, I can't tell you. That was what alarmed us to run out of the hall.

We don't mind the alarm of the whistle, because that is our natural business to blow when we meet a steamboat; but if you blow a whistle and immediately after ring your bell, there's probably some-
126 thing; the pilot stops to get position or to see what the coming boat is going to do—something or another. Naturally we come out and looked. I have been on boats several times that have had accidents happen by blowing up and running into.

Q. Where were you when you heard that backing-bell?

A. I was sitting in the hall.

Q. Is that the first bell you heard?

A. What other one would I hear?

Q. Didn't you ring a stopping-bell?

A. Probably; it might have been the stopping-bell and the backing-bell too. You are right about that.

Q. You don't know which it was—the stopping-bell or the backing-bell?

A. No, sir.

Q. You only heard one bell?

A. I don't know whether it was one or two. I heard the bell in excitement and run out.

Q. Could you hear the stopping-bell sitting in the hall?

A. I might possibly, being excited and bothered, and not know positively.

Q. I mean does it ring loud enough for you to hear it?

A. Yes, sir.

Q. Does the backing-bell ring loud enough to hear it?

A. Yes; you can hear any bell on that boat.

Q. Did you hear any bells after you went out?

A. After I went out on the boiler-deck?

Q. Yes, sir.

A. I don't know that I did.

(Signed) WM. CAMPBELL.

127 JAMES OSCAR NIXON, Jr., being sworn, deposes and says:

"I took down the testimony of William Campbell, in stenographic notes, on the twenty-eighth (28th) day of January, 1873, at the office of Alfred Ingraham, No. 61 Camp street, in the city of New Orleans, aforesaid, and that said stenographic notes contain strictly and truly and literally all the testimony of said William Campbell, *Wm. Campbell*, and the foregoing and annexed sixty pages contain the true and complete transcript and copy from said notes of said testimony taken at the time and place hereinbefore stated."

J. O. NIXON, JR.

Sworn to and subscribed before me at the city of New Orleans, this 10th day of March, 1873.

ALFRED INGRAHAM, [SEAL.]
Commissioner of the United States.

Testimony taken in New Orleans, January 29th, 1873. Present, R. H. Marr, esq., proctor for libellant; Given Campbell, esq., proctor for respondent.

W. H. H. TURNER, sworn for libellant, says:

Q. State your occupation, and how long you have followed it.

A. Pilot.

Q. How long have you been in that business?
A. Well, sir, since about twenty-five years.
Q. You have been part of that time in the trade between New Orleans and Vicksburg?
128 A. Yes, sir.
Q. How long have you been in that trade?
A. In the Vicksburg trade?
Q. Yes.
A. It is now about seven years.
Q. Do you know whether the navigation at and in the vicinity of Natchez, above, is about the same as it was at the time of the collision between the Potomac and the Lee—whether there has been any change there, since that time, in the mode of navigating?
A. No; it is about the same, I think—no change that I know of.
Q. Coming down the river, above Natchez, isn't there a bend on the Mississippi side that boats come down in?
A. Yes.
Q. Coming out of that bend, and intending to load at Natchez, which way does the stem of a down-stream boat head?
A. Well, she is headed off from the Natchez shore, when she is making preparations to come to the landing.
Q. From the pilot-house, in drawing a line to the jack-staff, where would that line, projected, strike? What would it strike?
A. Well, sir, it would strike below the bluffs, at the lower part of town.
Q. How long does a boat continue holding in that course? How far down does she get before she changes that course?
A. To make her landing?
Q. To make her landing at Natchez; yes.
129 A. Until she would stop her wheels; which would be pretty near abreast of the coal-flats, which is a hundred yards above the wharf-boat.
Q. Keep that course until you got a hundred yards from the wharf-boat?
A. Yes, sir.
Q. You round in at Natchez?
A. Generally speaking, yes.
Q. Have you ever made the experiment of standing on the starboard side of the texas of a boat coming down in the direction that you have described, to see whether a man standing in that position on the starboard side of the texas of a boat, about midway of the texas, can see the light at Natchez or not?
A. No; I never tried such a thing at night—never noticed particularly—but I have in daylight.
Q. What would be the range of vision of a person that is situated on the starboard side of the texas, about midway of the texas, coming down this way? What view of Natchez, or of the lights at Natchez, would he have?
A. Coming out of the bend, as you spoke before?
Q. Yes; I am speaking of that navigation.
A. He would have no sight of it—not the landing.
Q. If he couldn't see it in daylight, what view would he have at night of the lights?
A. I don't think he could see them at all.
Q. One of the witnesses in this case has stated that the Potomac, when coming down that bend, seeing the Lee, stopped both engines

when the boats were about eight hundred yards apart, and
130 backed upon her starboard engine. What would be the effect upon a descending boat stopping her engines at a distance of about eight hundred yards, and backing her starboard engine?

A. What would be the effect upon a boat backing?

Q. Yes, sir.

A. It would pull her head to the starboard; she would go off to the right.

Q. How would her head be directed—to the Mississippi shore or the Louisiana shore—how would it throw her head?

A. It would throw her head to the Louisiana shore?

Q. If she continued backing long enough, wouldn't she turn around entirely, with her head up-stream?

A. Yes.

Q. Could a boat, under those circumstances, having stopped her engines, as stated, and backed upon the starboard engine, could she have her head brought in towards the Natchez shore by that maneuvre?

A. No; not without turning clear around entirely. She could turn her head up-stream; she might do that way.

Q. That would be an operation which would require some little time, wouldn't it?

A. Yes, sir.

Q. And bring her entirely around, so as to bring her head to the Mississippi shore?

A. Yes, sir.

Q. It has been stated in this case that the Lee was going up stream, having left the wharf-boat at Natchez, and that, coming in col-
131 lision with the Potomac somewheres not very far from Brown's saw-mill, the Lee was struck on the larboard side, a little aft of her stem. In what position must the boat have been that gave her that blow—I mean as to which side of the river she was on?

A. The Lee going up the river?

Q. The Lee going up the river, having just left the wharf-boat at Natchez, and the collision supposed to have occurred somewheres—we have not located it exactly—somewheres in the vicinity of Brown's saw-mill; I don't know about the distance from the Louisiana or the Mississippi shore, but the boats were in the river somewhere, not very far from Brown's saw-mill, and the Lee got a blow on the larboard side, a little aft—about her bitts, probably—how must the other boat have been to have given her that blow?

A. She must have been headed to that shore—to the Mississippi shore; I don't see any other way.

Q. She must have been headed to the Mississippi shore?

A. I don't see how else it could be.

Q. To have gotten upon the larbord side of the Lee, so as to have come in contact with the larboard side of the Lee, on which shore must the other boat have been?

A. She should have been that way that you speak of—closer the Louisiana shore than the Mississippi shore. You say the Lee was on the Mississippi shore, coming up by Brown's mill, when she was struck.

Q. She was coming up in that neighborhood, and got the blow on the larboard stem?

132 A. The boat must have been that way—on the Louisiana shore.

Q. Do you know where the Lee sunk?

A. No; I wasn't up the river at the time she was there. I didn't see her.

Q. Do you recollect the stage of water about the time that that collision occurred?

A. Well, I can't say that I do exactly—the exact stage of it?

Q. How does a boat leaving Natchez going up stream navigate along there—how does she work her way along up the river?

A. Generally when we leave the wharf-boat there we hold so as to get clear of the lumps about Brown's saw-mill, and go along carefully on the bar and along into the bend, and just go from there up. After cutting off, as we call it, from the Louisiana bar, we drop into the bend again.

Q. How far out do those lumps extend?

A. Well, sir, there's some that show themselves that extend may be a hundred and fifty yards; then there's other breaks that we suppose to be lumps. I have never seen them dry, but very heavy breaks, that are still outside of those that are dry.

Q. How far would you say it would be a safe and proper course, and is the usual course of an ascending boat, leaving the wharf-boat at Natchez, to navigate, as you say, up the river—how far up the Mississippi shore is it considered safe to hold a boat at the usual course?

133 A. At anything like a low stage of water, you would have to hold out from the shore to be safe, say about two hundred yards—in that vicinity—I am speaking of the stage of water then—a low stage of water.

Q. How long have you known Charlie Pierce?

A. I have known him since '63.

Q. What is his character as a pilot?

A. Very good; I have always heard so; I have never heard but what it is good. I have always heard so.

Q. During the time that you have known Pierce has he had a berth in this trade generally.

A. Yes, sir.

Q. What sort of boats has he been on?

A. First-class boats, most of the time that I have known him.

Q. Did you ever know Charlie Pierce, when he was on a boat, to be sufficiently under the influence of liquor not to be competent to discharge his duties as a pilot?

A. No, sir; I don't know any such thing; I am not positive of anything of that kind; no, sir.

Q. How ought a boat, a down-stream boat, to be navigated, being in that bend on the Mississippi side—how ought she to be navigated thence to Natchez? How do you hold the boats coming down?

A. From where we straighten down, or begin to get out of the bend, as we call it?

Q. (by proctor for respondent, Mr. CAMPBELL.) Is that above the saw-mill?

A. That is above the saw-mill that we generally leave the bend, or begin to hold out, as we call it; when we get down, say half a
134 mile, or may be a mile; I can't say; I can't tell you exactly now the distance; we then straightened down, as it is called with us, and we will hold them below the bluffs, which is below the wharf-boat at the Natchez landing; that takes us clear of everything; that is the way we usually run it.

Q. When you get down as low as Brown's saw-mill, navigating in

that way, how far out in the river would you be with your down-stream boat?

A. We should be, and always try to be, say two hundred and fifty yards, may be a little more; I couldn't tell you exactly, but we always try to get clear entirely of all the breaks there.

Q. Running in that way, you widen out from Brown's saw-mill, or do you get nearer before you stop your engines, and run in at Natchez; do you get nearer to the Mississippi shore?

A. We widen a little—leave it a little.

Q. Weeving off from that shore?

A. Yes, sir; until we get down in distance to stop.

Cross-examination by proctor for respondent, Mr. CAMPBELL:

Q. Where do you reside?

A. Carrollton is my home.

Q. Jefferson parish?

A. Yes, sir.

Q. What boat have you been running on lately?

A. The last boat I was on—I am now on the Gov. Allen; the Lee was the last boat I have been on.

Q. The Lee was the last boat you have been on?

135 A. The Lee was the last boat until I went on the Allen.

Q. Were you on the Lee at the time of this collision?

A. No, sir.

Q. Did I understand you to swear that Charlie Pierce was not a drinking man?

A. No; you did not. I did not say he was not a drinking man.

Q. Suppose the wound on the Lee was as it was described by Mr. Marr in his direct examination, might not such a wound as that have been inflicted by the Potomac being straight up and down the river, in her proper place in the channel, and the Lee headed in towards the Mississippi shore, and across the bow of the Potomac?

A. Yes; it might have been done in that way. It could have been done in that way.

Q. What is the usual and proper course of an ascending boat leaving Natchez, until she comes up to Brown's saw-mill?

A. Well, sir, in leaving Natchez, until she gets to the mill, she is, if anything, headed a little from the Mississippi shore—very slightly—that is, right at that place—Brown's saw-mill; but she is still headed on the shore in the eddy of the bend.

Q. The bend is a good ways above that—the head of the bend?

A. The head of the bend is some distance.

Q. How far is the head of the bend above that saw-mill?

A. The head of the bend proper?

Q. Yes.

136 A. It is, I should say, three miles or three miles and a half above.

Q. Leaving Natchez, do you not hold your boat—I mean after drawing out from the wharf-boat at Natchez—do you not hold your boat rather over toward the bar—pointed in that direction—isn't that the usual way for putting out from there?

A. In making our run from the wharf-boat, yes, sir. You would be headed a little from the bar—that is, as we call the point of the bar. It gives us the bulge of the bend from the wharf-boat landing.

Q. What kind of a bar is that which comes down on the Louisiana side there, just above Natchez? Is it a bluff bar or a shoal bar?

A. Well, sir, I have never been close to it. It seems as we see it at

different stages of water that it is a flat bar—a shoal bar; but to get close to it and sound it I can't tell you. I couldn't tell you whether it is bluff or shoal; we always give it a wide berth.

Q. How wide a berth do you generally give it?

A. May be a couple of hundred yards, may be a little more—I can't say exactly—that is, the point of it. A little below it may be flatter; we never get closer than we can help—give it a wide berth.

Q. How wide is the channel opposite Brown's saw-mill?

A. From the outer edge of the lumps or the shoal to the bar?

Q. Running water—that is water that boats can run in.

137 A. Well, sir, I would say that three hundred yards would be as much as I would calculate upon for a channel; I would hate to vary, and take the chances outside of that.

Q. Where ought a descending boat to have been coming in there; what part of the river right there immediately in the channel?

A. She should have been—we generally try to get that position as near as we possibly can; we have marked it and try to run it in that manner.

Redirect examination:

Q. Meeting a boat, you being on an up-stream boat, having left the wharf-boat at Natchez, meeting a boat, which shore do you hold nearest to with your up-stream boat?

A. Meeting her as I leave the wharf-boat?

Q. You leaving the wharf-boat at Natchez, and meeting a boat at anywhere in the vicinity of Brown's saw-mill, which way do you hold your up-stream boat? Which shore do you hold her nearest to?

A. If I was leaving the wharf-boat, or passed the wharf-boat on the Natchez shore, and there should be a boat in the vicinity of Brown's saw-mill, or anywheres near it, I should surely keep on the Mississippi shore until I met her; but that depends altogether upon how far off she was—I speak of the mill; if I should be apt to meet a boat in that vicinity I should not leave the shore at all; I would keep the Mississippi shore until I met her.

Q. If the down-stream boat is navigated properly, and the up-stream boat is held nearest the Mississippi shore, would the down-stream

138 boat pass on the outside *on* the other, on the Louisiana shore?

A. Yes; provided she is held in the proper place for descending boats.

Q. And if you were to hold your boat—an up-stream boat—to the bar side, that course would be likely to bring you across the track of the down-stream boat, wouldn't it?

A. If she was at Brown's mill coming down?

Q. Yes, sir.

A. It might; unless I couldn't get across the river very quick; that would depend altogether upon whether the boat was running much or not; but, at all events, I wouldn't try to cross her head in that situation.

Q. You would hold the Mississippi side?

A. I would, until meeting her.

Recross-examination:

Q. You don't mean to say that if a boat coming down on the Mississippi side just below Brown's saw-mill, and you have pulled out, running up rather more along the Louisiana shore than the Mississippi shore, that you would pull over and take that shore from her, do you?

A. No, sir; I don't say that.

(Signed) W. H. H. TURNER.

JAMES OSCAR NIXON, Jr., being sworn, deposes and says:

"I took down the testimony of W. H. H. Turner, in stenographic notes, on the twenty-ninth (29th) day of January, 1873, at the
139 office of Alfred Ingraham, No. 61 Camp street, in the city of New Orleans aforesaid, and that said stenographic notes contain strictly and literally all the testimony of said W. H. H. Turner, and the foregoing and annexed thirty-five (35) pages contain the true and complete transcript and copy from said notes of said testimony taken at the time and place hereinbefore stated."

J. O. NIXON, JR.

Sworn to and subscribed before me at the city of New Orleans, this 10th day of March, 1873.

ALFRED INGRAHAM, [SEAL.]
Com'r of the United States.

Testimony taken in New Orleans, February 6th, 1873. Present, R. H. Marr, esq., proctor for libellant; Given Campbell, esq., proctor for respondent.

J. A. MOFFAT, sworn for libellant, says:

Q. What is your business?

A. I am United States inspector here of boilers and machinery.

Q. A river man?

A. I used to be.

Q. Familiar with steamboats and their construction?

A. Yes, sir.

Q. Did you see the R. E. Lee after she collided with the steamboat Potomac, December, 1870?

A. Yes, sir.

140 Q. Where did you see her?

A. I saw her in New Orleans; at Thalia street, I think it was.

Q. How long after she arrived here?

A. I think it was the same day she arrived here, or the next day; I am not positive about that. They had just commenced taking the work away when I got there.

Q. Who asked you to go up there?

A. I don't know that anybody did; I went up for my own satisfaction, because I wanted to see.

Q. Did you examine the break in the Lee?

A. Yes, sir.

Q. Just as concisely and clearly as you can, describe that break.

A. It is two years ago, now. The break, I think, as nigh as I can recollect, was about fifteen or twenty feet from the stem, where she was struck.

Q. Which side?

A. On the larboard bow; it cut her down to the water's edge. From the looks of the break, at the time I looked at it, it looked like the Potomac had come nearly square into her—a little quartering down.

Q. Down which way?

A. Well, towards the wheel; or, towards the stern of the boat.

Q. Could the wound which you saw there have been given by any other part of the boat but the stem of the boat?

A. Could it have been done by any other——

Q. By any other part of the boat except the stem?

141 A. Well, I think not; the stem, or the fantail or guard aft of the stem. It had the appearance that the stem struck first, to me.

Cross-examination, by GIVEN CAMPBELL, Esq., proctor for respondent:

Q. Did you examine how deep that wound was—how far it penetrated into the Lee?

A. Well, it went in nearly to her keelson. The break was nearly to her keelson, I think.

Q. Was the break on her deck or in her hull, or did you notice that?

A. I saw back in the hull; I was down in the hold, taking a look at that. The time I was there they hadn't cleared the dirt away, and I couldn't tell below.

Q. You couldn't tell how the break was below?

A. Not exactly; no, sir.

Q. It looked to you as though it quartered from forward aft?

A. A little quartering, as I told you—a little quartering towards aft, where the bow of the other boat was laid a little aft of the Lee, cutting towards the stern. Of course a man couldn't tell anything about how they struck each other.

Q. You merely judge from appearance?

A. No more than the impression of the tear that was in the deck.

Q. At about what angle did it appear to be from forward aft; how many degrees?

A. I could hardly tell you that.

R. L. ROBERTSON, sworn for libellant, says:

Q. State your business here, occupation?

142 A. Underwriters' surveyor.

Q. Did you make any examination of the R. E. Lee after she collided with the Potomac?

A. I did.

Q. Did you make a thorough examination?

A. At the moment when she first arrived here I did not, but subsequently I did. I directed her repair.

Q. State what was the condition and character of the wound she had received.

A. Well, she was struck on the port bow, some distance, perhaps ten or twelve or fifteen feet. I don't recollect how far now. Her whole larboard bow busted right in—mashed right in for twelve or fifteen plank; fifteen or twenty top timbers, breast-hooks, planks, and everything smashed in, and the deck about half way in.

Q. Have you had much experience in regard to steamboats and other vessels?

A. I have been about forty years working at it.

Q. Could you see from the character of that wound how the Lee and the Potomac must have been in respect to each other, what part of the Potomac inflicted that wound?

A. The stem of the Potomac must have come very nearly square into the Lee. I don't think it was quite square, but it was very near.

Q. To what distance did it penetrate?

A. Right into the hull of the boat, and not only damaged that side, but it busted the other side off, and broke some of her timbers over there.

Q. The timbers of the Lee in that part of the boat struck are very heavy?

143 A. Yes; they are heavier than any other timbers in the boat; the bow is always made the strongest.

Q. Then they would have offered more resistance to an infringing body?

A. Yes, sir; there's no question about that. I think there's no portion of the boat as strong as the bow; there's heavy clamps and breasthooks running out.

Q. Are you prepared to say whether that wound could have been given by a boat which was either resting or merely going with the force of the current?

A. I think she must have had considerable headway upon her; it is impossible for me to say what momentum she had, but she must have had considerable headway.

Q. You say that blow must have been given nearly square; in what way did it range? If it was not exactly square, which way did it range?

A. My memory don't serve me for that; my impression is that it was a little aft, but I am not positive upon that subject.

Cross-examination:

Q. How long after the Lee's arrival before you examined her?

A. Well, it was a day or two afterwards. I don't recollect.

Q. When did you give her the thorough examination that you speak of?

A. Some time about the 10th, I think, when they had to build a dry dock to put her bow in. It took some time.

Q. How long was that after she arrived here?

144 A. It was some ten or twelve days, I think, before the dry dock was built and put under her.

Q. How far did the wound penetrate into the Lee?

A. It went right into the middle of her; carried everything away.

Q. Right to the middle?

A. Right nearly into the centre of the boat. It just mashed the timbers, hooks, and clamps, and everything, right in; and not only that, but bursted the other side out, so that she was all open from her deck almost down to her keel.

Q. Do you know that a wound from another boad did that?

A. I presume so. I don't know what else could do it. I don't know it; I didn't see it.

Q. Who asked you to go up and examine the boat?

A. Well, I first went there on my own account, for my own curiosity; but, subsequently, I went there at the request of Capt. Cannon—Mr. Cooper and myself.

Q. Did you make an estimate or statement at that time for Capt. Cannon?

A. I made no estimate of repairs. I made a statement of what repairs were necessary for the boat.

Q. For Capt. Cannon?

A. Yes, sir.

Q. And of the injury done her?

A. Yes, sir.

Q. Was that in writing?

A. In writing.

145 Q. Could such a wound as that be inflicted on the Lee by a boat floating in the river, down stream, provided the Lee had considerable headway herself, and she had run against her?

A. Well, I don't know how a boat floating down could come into her in that way. There must have been some momentum about the boat, or she couldn't come into her.

Q. Suppose a boat should take a sheer off, and run into the bow of another boat?

A. That I can't say.

Q. Couldn't such a wound as that be inflicted in that way—wouldn't that give strength enough?

A. If it struck in that particular manner, it might have done it.

Q. Do you think it is impossible to hurt the Lee by the Lee's running against any solid substance?

A. Well, I think she might be hurt pretty badly by running against a solid substance.

Q. Don't you think the bow of the Potomac was a solid substance?

A. I think so.

Q. If the Lee ran against the bow of the Potomac, it might inflict that wound?

A. I have no idea how she could.

Redirect examination:

Q. When the wounded boat causes the wound by running against the stem of another boat, doesn't it rake fore and aft; does the boat that gives the injury penetrate into the other boat; could it penetrate into the other boat by the wounded boat striking against her stem; wouldn't it just rake?

146 A. I have no doubt but that the Potomac's stem made that hole in the boat; that she came clearly into her—squarely into her.

Q. (By proctor for respondent, Mr. Campbell.) That is your opinion?

A. I have no doubt of it; that is my opinion. Anybody that saw it at the time couldn't come to any other conclusion. I know more than that about it, because I subsequently repaired the Potomac—took her stem out and put a new one in, in consequence of that.

Q. State what injury the Potomac had.

A. The stem and apron were all mashed up, and the bow was very badly damaged.

Q. How did that seem to have been done; was it driven in?

A. Driven right into the boat—mashed right in.

Q. The jackstaff down?

A. The jackstaff down, and the head of her apron, where she secures the jackstaff, was knocked off. There was no question in my mind but that the bow of the Potomac went right under the guards of the Lee, and struck her there; that knocked her jackstaff and the head of her apron, all of them down as she went in.

Recross-examination:

Q. Which way was the Potomac's stem sprung, on either side or not?

A. Well, I don't remember exactly, but the stem was mashed in; the stem and apron both mashed in.

147 Q. If the stem had been knocked on either side, wouldn't you have noticed it?

A. I think it very likely I should.

Q. What is your recollection about that?

A. I don't recollect which way it went.

Q. Do you recollect that it was knocked either way?

A. It was knocked in, I know, and broken to pieces.

Q. Do you recollect that it was knocked either to starboard or larboard, out of its place?

A. I do not recollect.

Q. You have no recollection about that at all?

A. No; I made a written statement of the Potomac's damage at the time, the same as I did of the Lee, when I repaired her; that can be produced if it was necessary.

Q. (By proctor for libellant, Mr. MARR.) Have you got that in your possession?

A. Yes, sir.

Q. (By proctor for libellant, Mr. MARR.) Would you produce it?

A. I would, if you want it; I can produce a copy of it.

Q. Was the stem band of the Potomac displaced?

A. Yes, sir.

Q. Which way?

A. Well, the stem was mashed up, broken up; I don't remember which way it went, or which way the stem went. I don't know that I gave it any attention. I had a new stem put into her; the old
148 one taken out and a new one put into her. A man's memory isn't very good about things of that kind, that does so much of it as I do.

Q. What is your age?

A. Seventy-five years, next month.

Q. Your memory then must be, probably, not as good as it used to be?

A. No, sir; it is not, by a good deal.

L. W. COOPER, sworn for libellant, says:

Q. You will state your age and occupation.

A. I am river inspector to the board of underwriters—board of insurers, rather.

Q. Havn't you, at some part of your life, been engaged in steamboating?

A. Yes, sir.

Q. Any considerable time?

A. I was steam-boating for about thirteen years.

Q. As master, during that time?

A. A portion of the time—principally as master—first as clerk.

Q. Did you ever make any examination of the Lee, after she collided with the Potomac?

A. Yes, sir.

Q. Where did you examine her?

A. The first time that I went to see her was directly she arrived here; on Sunday, I think it was. Capt. Cannon sent for me. I went across the river. She was moved to this side; he was afraid she was going to sink. I crossed over with Vallette; we examined her as well as we could for the muddy bulkhead; we couldn't see the whole damage as well as it was necessary.

149 Q. Did you make any examination afterwards?

A. Yes, sir; I then examined her again, at the foot of Thalia street, I think it was; at the cotton landing there; but still she had mud in her, so that we couldn't see the extent of her damage.

Q. Did you ever examine her when she was in a condition that you could see the extent of it?

A. Yes, sir; at the dock; Capt. Robertson and myself had a survey, and made a thorough examination.

Q. State the character and extent of the wound, and how it was located.

A. It was on the larboard bow; I think some fifteen feet from the

stem—aft of the stem—as well as my memory serves me; from ten to fifteen feet aft of the stem.

Q. How did the wound seem to have been given?

A. It had the appearance of having been given by the other boat coming head on, almost. She was angling a little. The appearance of the break showed that the boat was angling a little aft when they came together.

Q. A little inclination was from forward to aft?

A. Yes, sir.

Q. To what extent was the wound? How far did the boat penetrate?

A. Well, nearly to the stem, I think; nearly to the keelson, as well as I recollect. Our surveys will show all that. We have got the number of plank that was broke on both sides, and all how it was done.

Q. When the copies are made out, will you verify those as correct accounts of the survey that you made?

150 A. Yes; the original copy, I presume the underwriters that she was insured with have possession of it; it is a copy; the record of it we keep.

Q. In your office?

A. Yes, sir.

Q. You say the wound penetrated nearly to the keelson?

A. Yes, sir; as well as I recollect now; you will find in the survey the number of plank.

Q. Is the keelson in the centre of the boat?

A. Yes; it runs fore and aft.

Q. Did you observe whether the timbers of the Lee that were cut through were very strong timbers?

A. Yes; she was a very strong built boat.

Q. That is the strongest part of her?

A. Yes, sir.

Q. Where this wound was received?

A. Yes; the bow of the boat is the strongest part of the boat; they receive their blows there, generally.

Q. Can you say whether that injury could have been done by a boat which was either resting or going merely with the force of the current?

A. I should think not.

Q. From the appearance of the blow, are you prepared to say whether the boat was in motion, and had considerable motion; the boat by which that injury was inflicted; what is your opinion?

A. The boat coming into the Lee?

Q. Yes, sir.

A. I should think she had considerable power upon her.

151 Q. Do you know of any means by which the bow of the Lee could have been swung over a boat in such a way as to have inflicted that wound, if the other boat had not been in motion; had not been descending?

A. It might possibly have been done; I have never seen an occurrence of the kind. I should think not; that boat couldn't swing and give that sort of a blow, particularly against any object which was afloat. She might possibly, in striking a ledge of rocks or in swinging, perhaps might strike something very hard and permanent, and it would injure her that way; but coming in contact with a boat just laying in the water, without any headway, I don't think it could.

Cross-examination:

Q. Suppose the Potomac had have been headed down stream, with her

stem pointing a little toward the Mississippi shore, near Natchez, and the Lee had have been headed up stream, with her stem pointing a little to the same shore, and the Potomac had been floating with the current, in that shape, and the Lee had been going ahead with considerable headway in that direction, might the wound not have been inflicted in that way?

A. From the appearance of the break it seems to me the Lee would have had to have been going up the river sidewise, to have struck it that way. She had considerable headway up the river.

Q. Quartering up the river?

A. No, sir; sidewise going up the river; because the appearance of the break would indicate that the other boat was nearly at——

152 Q. At right angles?

A. Yes; at right angles, angling a little aft.

Q. But the other boat might have angled towards the Mississippi shore?

A. It would be impossible for you to place two boats in that position, for one to lay still and the other approaching in that way, to strike in that way. I don't think you could cause two boats to come together that way and create such damage. I think it would have required a certain degree of momentum to enter that mass of timber that was broken.

Q. Don't you know that within the last fifteen years steamboats floating down the Mississippi River have been totally wrecked on the piers of that bridge at Rock Island?

A. No; I don't know it.

Q. Haven't you heard it?

A. I have heard of their meeting with accidents there—whether they were.—I don't think any of those bridges up there are strong enough to injure a boat as the Lee was injured, by floating against a pier.

Redirect examination:

Q. Did you make any examination of the Potomac?

A. I have no recollection of it. It strikes me that I was not here. It was some time after the Potomac was repaired before the Lee was. I think, probably, I was not here.

Q. You have no recollection of any examination?

153 A. I don't recollect of going to the Potomac to examine her at all. It seems that Robertson did, though. I might have been there, but I don't recollect; the other I do, distinctly, because Cannon sent for me on Sunday, and I went up there. I believe that this was the time before she was finished.

Recross-examination:

Q. You said they came together almost at right angles—a little quartering?

A. Yes; angling down.

Q. Quartering from the stem towards the stern?

A. Yes; from the stem aft—from forward aft.

Redirect examination resumed:

Q. From the shape and appearance of that wound of the Lee, do you know any other part of a steamboat that could have inflicted the wound except the stem of the other boat?

A. I don't think any other part of a steamboat you could get there would make that sort of a break except the stem; there is no other part of a steamboat that is hard enough. The stem is the strongest part of a steamboat.

James Oscar Nixon, jr., being sworn, says:

"I took down the testimony of J. A. Moffatt, R. L. Robertson, and L. W. Cooper in stenographic notes, on the sixth day of February, 1873, at the office of Alfred Ingraham, commissioner of the United States, No. 61 Camp street, in the city of New Orleans, aforesaid, and that said stenographic notes contain strictly and literally all the
154 testimony of said J. A. Moffatt, R. L. Robertson, and L. W. Cooper, and the foregoing and annexed forty-five (45) pages contain the true and complete transcript and copy from said notes of said testimony taken at the time and place hereinbefore stated.

J. O. NIXON, JR.

Sworn to and subscribed before me at the city of New Orleans this 10th day of March, 1873.

ALFRED INGRAHAM. [SEAL.]
Commissioner of the United States.

Testimony taken, New Orleans, March 25th, 1873. Present, R. H. Marr, esq., proctor for libellant; Given Campbell, esq., proctor for claim'nt.

JOHN W. CANNON, libellant, sworn in his own behalf, says:

Q. You were on board the Robert E. Lee at the time of the collision with the Potomac?

A. Yes, sir.

Q. What time did you get to Natchez that night?

A. I think we got there about ten o'clock; arrived there about ten o'clock; half-past ten o'clock; ten to half-past ten.

Q. Were you the master of the boat?

A. Yes, sir.

Q. How long did you lay at Natchez?

A. I believe we laid there about an hour or an hour and a half.

Q. Were you out on deck when the boat left Natchez?

155 A. Yes, sir; I was up on the hurricane roof when the boat left Natchez.

Q. How did she go out; more off from Natchez?

A. Just as a boat usually does.

Q. How did she hold?

A. Well, we held her out down by the coal-boats; when we got down to the coal-boats we straightened up the river, near to the Natchez shore; after the boat was all under way and everything all clear I went down below.

Q. How far up the river had the boat gotten when you left the deck?

A. I suppose she had gotten a hundred and fifty or two hundred yards from the wharf-boat; all straight up the river.

Q. From the wharf-boat at Natchez, how far up the river could the light of a down-stream boat be seen?

A. From the wharf-boat at Natchez?

Q. Yes, sir.

A. About a mile and a half from Natchez; about a mile and a half in low water you can see the light of a boat.

Q. When you left the deck of the boat, did you see any lights of a descending boat?

A. I did not.

Q. After you left the deck, did anything occur to attract your attention?

A. After the boat was all under way, as I before stated, I went down below to the stove; after being at the stove, I suppose, probably three minutes may be, or four minutes may be, I couldn't exactly describe to a second the time, I heard one long whistle blow.

156 Q. From what boat?

A. From the Lee. I remarked to some gentlemen that were standing right by the side of me that we had been expecting the Natchez for a long time, and, therefore, I was in a hurry to get away from the wharf-boat at Natchez before she came.

Q. Was that the night that the Natchez ought regularly to have been there?

A. Yes, sir; she was due there, for they were looking for her every minute. I remarked to these gentlemen that we were now, "I suppose we are going to meet the Natchez; we are going to meet her in a narrow place up here in the river." One of the gentlemen remarked to me that, says he, "Don't you let the Natchez get on top of you, like old Tom Leathers did." I told him I hoped not. I then started to go out of the door to witness the passing of the two boats. As I went towards the door from the stove the engine bells rang to stop the Lee—both bells rang. I then rushed out of the door very quickly. Then, as I went out of the door, I looked and saw a boat coming down the river, as I thought, in her proper place, and, at the moment, wondered why Pierce had stopped his engines. I looked at the Lee; she was headed straight up the river and the other boat was apparently coming down in her proper place. As soon as I observed the position of both boats clearly I looked there; all at once I saw the signal lights of the descending boat commence to close together, throwing her side towards us. Campbell, in the meantime, had come up; he asked me what

157 that was. He heard the bell to stop the Lee and came up either from the cabin or somewheres, came to me and spoke to me, and asked me what that was. Says I, "It is a boat." At that instant, as I before stated, she commenced turning her side towards us, as though she was going to try to pass on the other side of us, rounding right to, in other words. I remarked, "Great God Almighty! both boats will be sunk." I then started to run for the hurricane roof. As I was running for the hurricane roof, the boat, which turned out afterwards to be the Potomac, blew two little short whistles, and then, in the time I was going up the steps, or about the time I was getting to the top of the steps, I heard her ring her bells, I suppose to stop her, as they say they never backed, for I heard a bell ring, the engine bell, I couldn't tell whether to stop her or back her. The boats were then within a hundred and fifty feet of each other. I rushed up the steps; when I got to the top of the steps I hollowed to Pierce, who was at the wheel of the Lee, to back her on both engines, that that boat was coming right square into him. He replied to me that he was backed on both engines. I then ran forward, and just as I got forward, I did not quite get forward, to the forward part of the roof, I just got hardly where I could look over, she struck the Lee right on the larboard side, going clear into her keelson; the chimney-guys, she broke a good many. I saw the chimney-guys; they fell all around me every which way. Of course, as soon as they came down, fell, I ran and looked; I saw her bitts caved in; the Lee was still backing. Then, the Potomac,

158 when she struck us, she swung right around broadside, head up the river, the way the Lee was pointing; she was coming, rounding to, with such headway that she never stopped swinging; when she struck the Lee she came broadside on, head up-stream with the Lee. The Lee backed away from her; as she backed away I saw the bitts

caved in, and I knew very well we were badly hurt. I told Pierce to run the boat in to the Natchez shore, but before he had a chance to do anything I reversed the order and told him to back her on the larboard engine, and go ahead on the starboard engine, and get to the bar as soon as possible, which he done, and the boat then was run on the bar. We run the boat with a full head of steam, all that we could, over to the bar. When we got pretty near to the bar I made him stop the Lee and back her until her bow eased up on the bar; I then came ahead on the inside wheel and backed on the outside one, and got her on the bar where she sunk in nine feet water on the outside and eight to eight and a half on the inside.

Q. When you first saw the Potomac, when you first came out, on which side of the Lee was she?

A. She was coming down stream on the larboard side. Had she kept straight down the river she would have missed us a hundred yards.

Q. When she came into you, which shore was she nearest to?

A. Well, when she came into us she was nearest the Natchez shore, for we were nearest the Natchez shore.

159 Q. How far was the place, at which you sunk on the bar, from the place at which the collision occurred?

A. Well, it wasn't more than between a quarter and a half mile. We went right straight across the river right to the bar, as straight as we could go; a little up-stream, if anything, from where we came together; we came together at Brown's mill, perhaps a quarter or half the length of the boat above Brown's—not that; the boat was opposite Brown's mill, because when I came out the first thing I saw was the white house or saw-mill.

Q. Could you see the mill plainly?

A. Yes, sir; certainly; could see so much of the river very plainly. It was a very dark night; but a man that knows the river, as I had got to know the river—if you see a glimpse of the river—a pilot has to know the river well enough, if he sees a very small portion of it, to know where he is going, if he sees any part of the shore at all. I have been a pilot on the river for thirty-five years.

Q. After you sunk, and after daylight, so that you could see, state how Brown's saw-mill bore from the place where you were at.

A. We lay a little across the river; a little above Brown's saw-mill, quartering up-stream, probably on a straight direction across the river, probably three or four times the length of the boat, not more than that—not more than four times the length of the boat.

Q. When your boat left Natchez that night, did she go over on to the bar, towards the bar?

A. No, sir; not that I saw; she never went over toward the

160 bar at all; when I left the deck she was headed up the river nearest the Natchez shore; when I came out on deck we were in the same position; I couldn't see that she had ever changed, for I was off the deck only three minutes; if she had gone to the bar and back, she couldn't have had time to do it in the distance that I left the boat at Natchez, when I went off the roof until I came out on deck again; the space in the river—the distance between the two points—she would have had to have stopped her engines to have got across so as to have got back where she was when I came out again; we couldn't have done it and have been running the engines.

Q. What is your idea of the distance from the wharf-boat at Natchez to Brown's saw-mill?

A. Three quarters of a mile; between half a mile and three-quarters.

Q. Did you observe the shore to see whether the Lee was receding or not at the time the collision occurred; could you tell anything about it?

A. Well, I couldn't tell exactly whether she was going back or forward; she had no way on her from the time she had been backing, because she was backed as much as she would be backed to land to stop her engines and back at a landing; the number of revolutions she had made of the engines would land her most anywhere on the shore safely.

Q. At that season of the year, or at that stage of water—for it don't make any difference about the season—at that stage of water, where was the channel of the river leaving Natchez?

A. It was on the larboard side of us.

161 Q. What distance do you think you were from the Natchez shore at the time the collision occurred?

A. I think we were about a third or a little over a third of the way from the Natchez shore to the other shore; about a third, as near as I can say; about a third.

Q. What did that one whistle of your boat mean?

A. To pass a boat on the starboard side.

Q. Was there space enough left for the other boat to have passed on the starboard side?

A. She had two-thirds of the river; a third of that portion she had was the main channel of the river.

Q. Do you know how boats are steered coming down; say a mile and a half above Natchez; how a boat is held?

A. A mile and a half above Natchez she is held right straight down through the middle of the river; she is held down through the river, a little opening on the bluffs at Natchez, a little open on the bluffs, holding about the middle of the river, opening on the hill way below Natchez, which brings you about the middle of the river along there, just about the middle of the river; which brings you about the middle of the river where the boats come together, holding on the bluffs way below Natchez; say a mile and a half, or such a matter, below Natchez, the foot of the bluffs; as you come down further you would hold out still more; you would be headed pretty near Vidalia; a little to the left of the Vidalia shore, when you got near Natchez in your proper course.

162 Q. Rounding to at Natchez, how do down-stream boats round; do they round in or out?

A. They round in.

Q. In order to do that they hold out pretty wide?

A. Yes; they run down the bar pretty well. Nearest the Louisiana shore would be the proper place for a down-stream boat.

Q. A down-stream boat, at Natchez, would take that side of the channel which is nearest to the Louisiana shore?

A. Yes, sir; that is the proper place for her to be; that is what I have done for the last twenty-five or thirty years.

Q. That was for the purpose of rounding in at the wharf-boat at Natchez?

A. Yes, sir; it gives her room to round in; she ought to go nearest the bar; she could come pretty close; she could come within twice the length of the boat, or three times, for that matter.

Q. How far out was that bar dry at that time?

A. I suppose a third of the way across the river, very near.

Q. When you got nine feet of water, how much water was there between you and the dry bar?

A. How much space? About the width of the boat—scarcely the width of the boat between us and the dry bar—hardly the width of the boat.

Q. You had nine feet of water on the outside, and eight feet on the inside?

A. Yes, sir.

Q. Then the bar is pretty bluff there?

163 A. Yes, sir; a boat can run within two lenghts of herself down that bar, or two and a half, with perfect safety. Right there, where the boats came together, the bar flattened off; a boat would probably have to stand off three lengths of herself down opposite Natchez.

Q. When a boat is coming down above Brown's saw-mill, in that vicinity, how would the lights on the wharf-boat or the lights at Natchez open out to the boat; how would the lights be seen; how would they be visible?

A. Which side would they be seen from on a down-stream boat in her proper place?

Q. Yes.

A. On her larboard side. On her starboard side you couldn't see Natchez at all, nowheres opposite Brown's saw-mill; from there down until you rounded to or you commenced to round to.

Q. One of the witnesses on the Potomac says that he came out on the starboard side of the texas; came out of his room on the starboard side of the texas and plainly saw the lights at the wharf-boat at Natchez. In what position must the boat have been if he could have come out on the starboard side of the texas and seen those lights?

A. She was rounded to toward the Natchez shore. It couldn't be any other way. The river is there, and the city of Natchez. All shows for itself that she rounded to.

Q. One of the witnesses on the Potomac states that when the boats were about eight hundred yards apart the engines of the Potomac were stopped and the starboard engine was set to backing and backed until the collision. How would that have placed the Potomac?

164 A. That would have pulled her way around on the bar; the starboard side entirely away from us, if that had been the case. But in place of that the Potomac was headed the other way entirely—right the reverse—and what proves it, if this witness on the Potomac testified when he saw the lights from the starboard side of the Potomac, shows that she was rounded to.

Q. Did you observe which way the head of the Potomac was pointing the moment before the collision?

A. She was rounding to—pointing right into us across the river the moment before the collision.

Q. Then her head was pointing towards the Natchez shore?

A. Yes; like she was rounding to to land.

Q. Holding that way, if you hadn't been there, where would she have gone in?

A. She would have rounded clear to before she got to the bank, the way she was going around; she would have rounded clear to, or may be hit the bank. I couldn't say.

Q. When she struck you was she between you and the Natchez shore, or between you and the Louisiana shore?

A. Between us and the Louisiana shore. I want to state intelligibly that a man on the starboard side of the Potomac, in her proper place, coming down the river couldn't see Natchez at all; but if the boat was rounded half way or half way rounded to then it shows Natchez all plain; and if she was entirely rounded to it would show Natchez all plain.

165 Q. From the starboard side?

A. From the starboard side, yes; and in regard to the Potomac being stopped eight hundred yards off, I will state this fully and emphatically: That eight hundred yards from where those two boats met that no man could have told which side to have went of that boat, for either side is proper for a boat to go; but a boat leaving Natchez, meeting a boat at Brown's mill, where we met the Potomac, the Natchez shore was the proper place for the Lee to be, and to stay on that side until she passed, and the other boat to keep straight down the river—the boats never would have come near each other; had the Potomac kept straight down the river, as the Lee was up the river, neither boat would have come near each other; they would have come within fifty or seventy-five yards of each other.

Q. Was the blow the Lee received a violent one?

A. Well, as much so as ever I saw; I never saw nothing but the full headway of a boat that could have made such a blow. She went through in all, clamps, timbers, and breast-hooks, to the amount of eighteen inches solid timbers—anybody can measure it—went into the keelson and knocked the keelson over two inches; the print of her stem is, I.think, in the Lee's keelson to-day.

Q. What you mean by the keelson is the centre of the hull of the boat?

A. Yes; the centre of the hull of the boat. She went over the top of the other timbers, the Lee drawing more water than she was drawing, and first took clamps, breast-hooks, and timbers, and

166 plank, and everything as she went into the keelson of the Lee.

Q. How far off of her stem did she strike the Lee?

A. About ten or eleven feet aft of the stem—may betwelve feet—not over twelve feet, and not less than ten; between ten and twelve feet; I never measured the distance, but that is it.

Q. What is the character of the timbers of the Lee at that point?

A. Just about as strong as you will find in any ship about the landing here; they call her built like a ship.

Q. Did you superintend the building of the boat yourself?

A. Yes.

Q. Did you observe the character of the timbers that were put in?

A. Yes; I built her as strong as timber and iron would build her, because there is where all the wear is, on our packets, right in the bow, from her beams forward—in landing into banks and out again.

Q. You have had a good deal of experience in steamboating?

A. I have been thirty-five years nearly on the river, steady, except during the war; I was on the river then, in charge of smaller boats.

Q. Do you know of any means by which—considering the character of the injury which the Lee received—any means by which her bow could have been forced up against a boat that was either

167 backing or had stopped her headway, so as to have cut into the Lee as she was cut into?

A. None on earth; you couldn't put her in any position with her engines and machinery; you couldn't slew her with them big forty-inch cylinders, and make such a blow as that was.

Q. Did you hear any whistles from the Potomac except those two that you have mentioned?

A. None in the world; just those two little short whistles was all I ever heard; she was then within a hundred and fifty feet of the Lee, rounding right to, when she blew two little whistles.

Q. And then it was that you heard the engine bells?

A. Yes, sir; I heard the engine bells; directly the two little whistles blew, then I heard the engine bells ring on board of her.

Q. Do you know how many engine bells you heard? Did you notice that?

A. I think I heard two bells ring very distinctly.

Q. (By proctor for claimants, Mr. CAMPBELL.) Do you mean on the Lee or on the Potomac?

A. On the Potomac.

Q. What length of time elapsed after you heard your own whistle before you heard the engine bells of the Lee?

A. Well, I suppose it may have been probably two minutes, may be a minute and a half, as I have before stated, when I heard one long whistle blow; I started then to go out to meet the Natchez, as I supposed; as I started to go I heard her engine bell ring to stop; I then went out of the door quickly and saw this boat coming down, as
168 I thought, in her proper place; it looked to me to be so; in an instant after I saw the other boat commence rounding to—her signals lights showed she was rounding to, because her signal lights were burning bright and looked very plain; her chimneys were wide apart; she looked to be going in her proper place; all at once I discovered the boat commenced rounding to; as soon as I saw that I ran off the hurricane roof; in the mean time Pierce had discovered the boat rounding to toward him, and had started the Lee's engines back.

Q. Then you were about your cabin door when your engine bell rang?

A. I was on the boiler deck, a little outside the cabin door—right forward—where I could see the whole shore; I went out the larboard side, and went out into the middle of the boiler deck—probably even with the steps—in front of the stairway there.

Q. Is there any other fact to your knowledge that you desire to state in regard to that collision? Do you know anything further about it?

A. I don't know of anything more; that is just all about it that occurred there—that occurred on the Lee; the other boat—I think that she went into the Natchez shore; we backed away from her, and she went on into the Natchez shore; I think she did—I am not certain, because I didn't pay any attention to her; I was trying to save my own boat and the lives of the people, because I had my family on board, and I wanted to save the boat and the passengers on board; it was a night that if anybody got into the river they couldn't have lived unless they had something to save themselves with.

169 Q. After you got out did you stay on deck until she got to the bar?

A. Yes; until she got beached on the bar so fast she couldn't get any further; I then went below; she was on the bar, but she hadn't filled—got full of water yet.

Q. Was there any cargo in the hold of your boat at the place at which the Potomac came into you?

A. No; never stow anything down in the bow of the boat; you can't; the boat is too sharp.

Q. It is too far forward for that?

A. Yes; the capstan engine is put in there.

Q. How long were you detained there before you raised the boat?

A. We were detained there about, I think, forty hours; let me see—well, about forty-eight hours—about forty-seven hours before we raised her; we sunk, and the second night after we sunk—we sunk at twelve o'clock, or a minute or two before twelve o'clock, and the second night, between eleven and twelve o'clock, we pumped the boat out; she got off the bar and we went down opposite Vidalia.

Q. You brought her down for repair?

A. Yes, sir; reshipped all the freights on the Grand Era, got the boat secured as well as I could, and brought her down for repairs.

Q. How long were you engaged here with the repairs?

A. Over two weeks.

Q. Did you have the boat inspected when you got down her'?

A. Yes, sir.

170 Q. Who by?

A. Cooper and Robinson, and those government inspectors, Moffatt and Flanders; they were both up there and looked at the break; I had to build a dock to put under the boat; when I got the dock built and put under the boat they were up there; before you couldn't see much; there was a bulkhead across, and tarpaulins over it; when we got the dock under her and took them off I sent for those men to come up there, Cooper and Robinson, and I got them to examine how this lick was—whether it was a square lick, a side lick, or a head lick; I suppose they have stated what they found.

Q. You examined the cut yourself after you got down here?

A. Yes; I was up there all the time.

Q. How was it?

A. It was nearly a square lick—very little quartering down, if anything; the boat was pretty near square; she was swinging around very fast, and struck us pretty near square in the side—an angle of forty-five degrees anyhow around; the lick shows it, that the boat went nearly square in, a little angling down if anything; she was pointing a little down from square across the river.

Cross-examination:

Q. Whose watch was it when you arrived at Natchez?

A. Whose watch was it?

Q. Yes, sir.

171 A. Well, in regard to watches I don't have no particular watch; I am always on watch when my business calls for it; when I have nothing to do then I retire, and give the boat in charge of the mate and the watchman—always have one of them up all the time.

Q. Had you given the boat in charge of the watchman at the time this collision occurred?

A. I had not been off watch at all.

Q. Still on watch?

A. Yes, sir; I hadn't come off watch; I was still on watch.

Q. Where was your mate?

A. The mate was up on the texas, I suppose, some place.

Q. Do you know that? Don't state what you don't know; you may believe that it may be so, but if you don't know it don't state it, unless you saw him there.

A. Well, I didn't see him there; but the mate was on watch at the time.

Q. How do you know he was?

A. Because I know he was up there; I had seen him a few minutes before; he never had gone to bed.

Q. Was he in the texas?

A. Yes; he was in the texas at the time.

Q. Where is his room?

A. His room is in the texas.

Q. What is the mate's name?

A. Whitelow.

Q. Who intended to stand watch the balance of that night?

172 A. Well, him and me, both; because our business requires us up pretty near all night; between Natchez and Vicksburg we are up pretty much all night.

Q. You don't have any particular division of time between you and the mate?

A. Not at that particular point we didn't; never did; at any place, wherever there's business, I am generally up myself. After we get through with Bullock's Bayou, Davidson's Landing, and L'Argent there was a distance of fifteen or eighteen miles there was no landing, and I might have lain down and slept.

Q. Leaving the mate on watch?

A. Yes, sir.

Q. Would you have left anybody on watch?

A. I never go to bed; when I go to bed I leave one of them on watch; I never lay down without going and telling them, "I am going to lay down, look after the boat;" unless I tell them they never pretend to raise a hand, because they know I never lay down without giving them the order.

Q. What kind of a night was this?

A. It was a pretty dark night; tolerably dark night.

Q. Cold?

A. Well, it was cold, cold, cold.

Q. Whereabout was your boat when you left the roof?

A. She was headed straight up the river, about a hundred and fifty yards above the wharf-boat at Natchez—the coal-boats—the wharf-boat at Natchez.

Q. Which shore was she nearest to?

173 A. She was about a third of the way from the Natchez shore, in the river, headed right up the river, in her proper place.

Q. In her proper place?

A. Yes, sir.

Q. That is her proper place?

A. Yes; that is her proper place.

Q. The proper place for an ascending boat is not the bar shore?

A. The proper place for an ascending boat? No; it is not; not at that stage of water.

Q. What stage of water was it?

A. It was low water.

Q. How many fathoms?

A. I suppose two fathoms in the river——

Q. Wasn't there three fathoms?

A. No, sir; there wasn't.

Q. Wouldn't a pilot know better than you about that?

A. No; I know as well any man on earth.

Q. Suppose that a pilot had sworn there was three fathoms in the river at that time?

A. There was three fathoms there; but there wasn't three fathoms over the bars in the river.

Q. Over the bars where?

A. Glasscock's Island, for instance; there was about mark twain over Glasscock's Island.

Q. Where is Glasscock's Island?

A. About twenty-five miles below Natchez; I am talking about the river.

Q. I am talking about there.

A. There was three there; I never seen less than three there.

Q. There was plenty of water to have run along the bar shore?

174 A. Yes; they could have run the bar shore, but it was not the proper shore for a boat to go; it is not the proper course for a boat to go over to the bar; it is out of your way; then, to meet a boat coming down, you have no business to cross; you have to keep the Natchez shore until you get to Brown's Mill, and then cross, unless you meet the boat before, and you have plenty of time to straighten over; from the time of leaving the boat at Natchez you couldn't have time; you couldn't do it without making some confusion; the easiest way is to run up the Natchez shore.

Q. How long had you been in the cabin?

A. I think I had been in the cabin probably two and a half minutes or three minutes; not less than two minutes and not over two and a half, or may be three at the outside.

Q. Where were you standing?

A. Standing by the stove.

Q. Which side of the stove?

A. I was standing on the larboard side of the stove, the same side I went in on.

Q. What position did you occupy towards the stove; with your back to it or your face to it?

A. I don't remember.

Q. You don't recollect?

A. No, sir; I don't recollect; but a man would be most apt to have his face to it.

Q. Who was sitting around there?

A. Gus Watson, Eli Tullis, Reeve Lewis; I think that's all that I remember.

Q. Capt. Gould?

175 A. I don't remember whether he was there, inside or outside; I think not; Gould, if I recollect right—I don't recollect—I saw Gould, but I don't recollect what position he was in.

Q. Was Dunbar there?

A. Dunbar?

Q. R. B. Dunbar.

A. He may have been; I don't know; I was talking to those three gentlemen.

Q. W. H. Watson, was he there?

A. A. C. Watson?

Q. Another Watson.

A. No, sir; I don't know anybody else except Gus Watson—those three gentlemen.

Q. Was that all that was there?

A. That was all I recollect. I was talking to them, and know they were there.

Q. What were you talking about?

A. I was telling you what I was talking about.

Q. Was that all?

A. That was all. I remarked that we were going to meet the great Natchez.

Q. What were they talking about?

A. I do not remember. They replied to me not to let the Natchez get on me, like old Tom Leathers did.

Q. Who said that?

A. A. C. Watson. I told them I hoped not.

Q. Where were you when you heard the whistle?

A. I was at the stove.

Q. Was it a loud whistle?

A. Yes; a long, loud whistle.

Q. Could they have heard it?

A. Who?

176 Q. The other parties.

A. Certainly, if they had been paying any attention to it.

Q. Could they hear it without paying attention to it?

A. Yes, sir; I reckon a man could hear it. I have, many a time, had the whistle to blow at a landing and didn't observe it at all. But, looking for a steamboat——

Q. Where were you when you heard the bells?

A. I was about half way between the stove and the hall door, going out.

Q. What bell did you hear?

A. I heard the stopping bells, to stop the Lee.

Q. How far was the Potomac from the Lee when you went out?

A. She was about two hundred and fifty yards, as near as I could judge.

Q. How long did it take you, after you heard those stopping bells, to get out?

A. Very quick; I went out very quick.

Q. Then the Lee was not stopped until the Potomac was within two hundred and fifty or three hundred yards of her?

A. She was three hundred yards off when the Lee was stopped—plenty of distance to save both boats. All they had to do was, if both boats had stopped their engines three hundred yards of, and had backed, they might have come right together, and neither boat would have been hurt; nor a hundred and fifty yards wouldn't have hurt any boat.

Q. Who went out with you?

177 A. There was nobody went out with me. I didn't see anybody go out with me.

Q. Which door did you go out?

A. The larboard side; that was the side the Potomac was on.

Q. Which side are the steps on?

A. On the starboard side.

Q. You are certain you went out on the larboard side?

A. I went out on the larboard side, and then came up in between the steps, on the middle of the boiler deck.

Q. Where were you when the crash occurred between the two boats?

A. I was up on the hurricane roof, just ready to look over, when the crash occurred when the two boats came together. My God! it knocked

me down, knocked me on to my hands and knees, when the crash came, and broke down a number of the chimney guys.

Q. Who was in the pilot-house of the Lee?

A. Pierce was in the pilot-house of the Lee.

Q. When you came out there?

A. Pierce was in the pilot-house of the Lee, because I spoke to him. I came on the hurricane roof.

Q. Who else was up there?

A. I thinkJoe Roberts was up there.

Q. Who is Joe Roberts?

A. A little boy.

Q. How big a boy?

A. About eighteen or nineteen years old.

Q. What was he doing in the pilot-house?

178 A. He had been steering; helping Charlie Pierce to pull down the wheel; steering for him a little, just temporarily. He was a mere boy; he has got neither mother nor father; he is an orphan.

Q. A relative of yours?

A. No relation, only by marriage; no relation, only my wife's sister's son.

Q. A nephew by marriage?

A. Yes; a nephew by marriage.

Q. Where is Joe Roberts?

A. He is here.

Q. On the Lee?

A. Yes—no; he is not on the Lee. Well, he ain't on either one of them now.

Q. He has been on the Lee until lately?

A. Yes; he was on the Katie the last boat. He isn't on either of them now.

Q. Is he in the city?

A. I think he is in the city; yes.

Q. Who else was in the pilot-house with Pierce?

A. No one that I know of at all. Didn't see anybody or know of anybody being there except those two.

Q. Didn't the Lee change her course in the river?

A. No, sir.

Q. You are positive of that?

A. I am positive of that. She couldn't have changed her course from the time I left the roof until I came on deck again, and been where she was.

Q. She never changed her course a particle?

A. No; she was headed up the river when I left the roof and when I came out.

179 Q. Didn't she change her course and turn over towards the Mississippi shore, or sheer over that way, or something of that kind?

A. No, no, no, sir; when I came out she was headed right up on the big hill above Natchez, up river.

Q. Didn't you stand and see her change her course?

A. No, sir; I did not; when the boat struck—as the boat struck her, it knocked way around to the Natchez shore.

Q. Before the boat struck her?

A. No, sir; I will explain to you: when the boat was coming into us, Pierce held her wheel off toward the Natchez shore, sort of leaning off towards the Natchez shore, but she hadn't changed her course until I came out, when this boat was coming into us.

Q. She did change her course?

A. She leaned off towards the Natchez shore; when the boat came into her she knocked her towards the Natchez shore; after the collision had occurred the boats were heading a little quartering to the Natchez shore.

Q. How far off was the boat at the time you say she was pulled off a little towards the Natchez shore?

A. She was right into us then.

Q. How near?

A. Well, probably not seventy-five feet of us; seventy-five or a hundred feet of her.

Q. I find in your testimony taken before the inspectors this
180 statement: "And as the steamers neared each other, our boat pulled off a little toward the Natchez shore"——

A. That's proper; that's right.

Q. "The other boat at this time was within a hundred yards of us, swinging very fast toward us."

A. Exactly.

Q. You say now she was within seventy-five or a hundred feet at the time this occurred?

A. A man can't tell in the night, you know, that way; go ahead.

Q. Which was it, seventy-five or a hundred feet, or a hundred yards?

A. A man can't tell at night; I say a hundred feet; it might have been a hundred yards; I don't think it was a hundred yards; up to the time that boat started into us, Pierce backed the boat on the starboard engine, tried to avoid the collision; she took probably two or three revolutions or more on the starboa'd wheel; it started backing; first he thought he could swing her off from her, but up to the time the boat commenced rounding to, to come into the Lee, her head was straight up the river; until she commenced rounding to, the Lee was straight up the river, in her proper place.

Q. When you went out you say the Potomac appeared to be in her proper position, coming down the river?

A. Yes, sir; when I first saw the boat, about two hundred and fifty or three hundred yards off.

Q. Who was out on the forecastle of the Lee with you?

A. I observed there were several persons out there; but I
181 don't know who they were, except Campbell; he was the only man that talked to me there.

Q. The captain of the boat, you mean; Capt. Campbell?

A. Yes; he is now.

Q. He gave his testimony here?

A. He was steward of the Lee there at that time; acting as steward; sometimes captain, and sometimes he was steward.

Q. Did anybody else get up and go out at the time you did?

A. I don't know. I didn't observe anybody get up and go out when I did.

Q. Could you have looked out—were the curtains drawn in front of the glass doors of the Lee, as you came out—you know those glass doors?

A. There's no curtains there.

Q. What is it—stained glass?

A. Stained glass.

Q. All the way stained glass?

A. No, sir; the side doors are curtained, but the front doors are stained glass.

Q. The side doors—were the curtains drawn?

A. I think they were. They were drawn or not drawn—just as they may happen.

Q. What is usual on a dark night—to have the curtains drawn or not?

A. Yes; generally drawn—sometimes they are not drawn.

Q. Did you see the Potomac before you went outside—through the glass doors?

A. No, sir; not until I went outside.

Q. Did you look through the glass doors?

182 A. No, sir; didn't look through the glass doors.

Q. You couldn't?

A. Yes; I could have, but it was not my place to look through.

Q. Could you stand back in the hall—a position in the hall, say, fifteen feet from the front door, and look out and see a boat coming down the river?

A. Yes; they could stand next to the door and see a boat. If a boat had a very bright light, you might see her five miles up the river.

Q. On a dark night?

A. Yes; a dark night. You might see her a dark night.

Q. Could you see the sky-light of a boat out of a lighted room, that way, through the windows—not a sky-light, but a signal-light—through a window?

A. Yes; you could see her if you were standing in a position so as to see; but you couldn't see the shore so as to tell anything about it at night—through glass, that way.

Q. You could tell the distance that the light was off by looking at it from that position in the hall?

A. I don't know, unless a man would be very much accustomed; he might, probably, come something near it; I don't think he could, though.

Q. How many whistles of the Lee did you hear?

A. I heard only one whistle.

Q. Was that a loud, long whistle?

A. Yes; a loud whistle, a long whistle; just such a whistle as they blow to meet steamboats.

Q. Has the Lee a peculiar whistle?

183 A. Yes; there's only three whistles on the river like hers—the Pargoud, the Belle Lee, and the Lee.

Q. What is there peculiar about the whistle of the Lee?

A. There's one large whistle and four small ones. It makes rather a musical sound.

Q. What is the proper position for a boat coming down the river above Brown's saw-mill; is it to keep along the bar shore or to keep up the middle of the river?

A. Yes; the bar shore, at that point where we met her.

Q. I mean above Brown's mill.

A. You come down in the bend above. Half a mile or a mile above Brown's mill you come pretty close into the bend, and about half a mile above Brown's mill you leave the bend and stand out through the middle of the river, nearest the bar. That is the proper place for a down-stream boat.

Q. Why does she stand out there; to get rid of those mud lumps?

A. Yes; she has to stand out; you couldn't run over them, because there wasn't more than two or three feet of water over them.

Q. Where does the current run along there?

A. It runs about the middle of the river.

Q. About the middle of the river?

A. Between the middle and the bar, about in the channel; the channel is about midway, a little nearest to the bar, if anything; in low water the channel washes out towards the bar, and in high water there might be as much water probably over the rocks as there would be in the channel, because it fills up in there most generally.

184 Q. What were you doing when the bitts of your boat caved in?

A. I wasn't doing anything, except going out forward upon the roof—going out forward as fast as I could.

Q. Did you see them cave in?

A. Yes; I just about saw them caved in; just as I got where I could see over, as I before stated, the boats came together; I saw the bitts in an instant after it was done; when it was done I couldn't tell.

Q. How long did you remain on the hurricane roof?

A. Until the boat was full and settled on the bar.

Q. Didn't leave it?

A. No, sir; never left the hurricane roof at all; as soon as I got out there and the other boat backed out, I called for the mate and the watchman to go and see what damage was done down there and let me know; they went into the hold as soon as they could, and the mate answered me—about the time the boat backed out we backed out from her—and he answered when I called him; I called the watchman, too, at the same time, to go in the hold and see what damage was done. I knew very well we had to get her on the bar; the boat was bound to sink.

Q. Answer me this question: How many points or degrees of a circle did the Lee change her course when you say she pulled off towards the Natchez shore?

185 A. About one point; she pulled off no way at all until this boat started to come into us; she never moved a peg of course; when he saw the boat coming into us he backed on the starboar dengine first, to pull her away from her all the time; it appeared to me if that boat backed on her starboard engine eight hundred yards, those boats never could have come together in the world.

Q. The Potomac was at that time on the larboard side of the Lee?

A. Yes; on the larboard side of the Lee.

Q. How near was she to the bar shore?

A. At what time?

Q. At the time your boat commenced to pull off.

A. She was beyond the middle of the river, towards us; she was nearer the Natchez shore than she was the other shore; she was beyond the middle of the river, towards us.

Q. You don't know whether your boat had any headway or not?

A. No, sir; I am very certain she had no headway at all, from the revolutions she had backed her engines—from the time she had backed and the revolutions she had made on her engines.

Q. How many revolutions did she make?

A. I think it was four or five on the starboard engine; two or three, may be three or four, on the larboard engine.

Q. Are you certain of that?

A. That was as far as——

Q. Do you know that?

A. Well, I know this much: that she backed as much as—from the time that I observed her backing—he told me she was backing—

186 I know she backed as much as four revolutions from the time he told me she was already backing.

Q. Where were you while she was backing those four revolutions?

A. I was on the roof, going out forward; you see it is some distance from the head of the steps.

Q. Where were you standing when you saw her change her points?

A. On the boiler deck was the first I saw her change; that was what took me on the hurricane roof—about the middle of the boiler deck, forward of the steps.

Q. Then you ran on the hurricane roof, and after that she backed three or four revolutions?

A. Yes; she backed three or four revolutions—at least four revolutions after I came on the roof—before the boat struck.

Q. Which direction was the Lee's head turned at the time she was struck—how was she headed?

A. Well, she was just one point from her straight direction up the river—about one point.

Q. How much is one point?

A. I suppose—you just might say one point is not straight up the river, just varies from it a little, but as near as he can come to it.

Q. How far would two or three revolutions on her starboard wheel, backing, change her course?

A. Well, it wouldn't change it a great ways unless they kept backing her.

Q. Say two or three on the starboard wheel?

A. It wouldn't change her so mighty much; it would change her some of course; if the other wheel didn't back it would change her
187 right smart; the other wheel commenced to back pretty soon, too.

Q. How long does it take to make a revolution of a wheel of the Lee?

A. It takes about—I suppose she would make about fifteen revolutions a minute, or twenty—fifteen or eighteen; when running full speed she would run nineteen or twenty.

Q. At the gait she was going then?

A. About fifteen revolutions a minute then.

Q. At what rate of speed was she going?

A. She wasn't going very fast; I suppose about ten or eleven miles an hour, or twelve may be; she had just left Natchez, and hadn't got down to going very fast.

Q. In backing a boat doesn't it back slow at first?

A. Well, no; she backs pretty quick; she backs on time; when those big cylinders gets the steam she backs straight along; she don't back as fast as she would go ahead under way; she backs as fast as she would if they stop her and go ahead on her.

Q. How long would it take her to make four or five revolutions?

A. Well, it might take a quarter or half a minute.

Q. To back?

A. Yes; four or five revolutions.

Q. When she first commenced backing?

A. Yes; it wouldn't take her over half a minute to make four or five revolutions when she first commenced to back; she has got big cylinders, and you give them the steam, and the wheel goes all
188 the time. Small cylinders would back slow of course.

Q. Who was down there at the break in the Lee when you went down off the roof?

A. Well, there was the mate and the watchman; I couldn't tell how many. Everybody was *was* about there that had any business to be there, and may be some that didn't have. I couldn't tell you who hardly.

All that could do anything were there trying to save the boat. The crew and the mate—both mates—everybody was there that could do anything at all.

Q. Did you notice Capt. Gould down there?

A. I think he was down there. Yes, sir; he was down there when I went down. He gave me some little advice—made some remarks to me. That was after the boat had settled on the bar, though.

Q. How much insurance money did you collect from the insurance companies for the damage incurred by the Lee?

A. I'll tell you. I couldn't tell you the even dollars unless I would go and get the account. I think it was six thousand and some odd dollars. I will furnish a statement if you require it.

Q. That was net, was it?

A. I think it was. Six thousand and odd dollars; I think——

Q. That embraces the estimate of one-third off, new for old?

A. Yes, sir; they take out what is agreed on the policy. I don't remember now how they called for it.

189 Q. Had that money been paid to you at the time you filed this libel against the Potomac?

A. Yes; no, sir.

Q. It had not?

A. Yes; it had been paid to me. It was paid to me three months after this thing occurred.

Q. Did the insurance companies request you to bring suit for their benefit?

A. Did they——

Q. Against the Potomac?

A. No, sir.

Q. Then why do you embrace this in your estimate of loss, and make your claim twenty-five thousand dollars?

A. I was damaged twenty-five thousand dollars. I expect to get all I prove; that's all I expect if I prove I was damaged twenty-five thousand dollars.

Q. Was your actual damage twenty-five thousand dollars?

A. Yes, sir; over. It was thirty thousand dollars.

Q. What was the cost of your repairs?

A. Say in the neighborhood of twenty thousand dollars—between eighteen and nineteen thousand dollars. Then I lost three of the best trips of the season, which was worth fifteen thousand dollars more.

Q. One-third added to six thousand dollars would make it eight thousand dollars. That eight thousand dollars would have to come off your repair bill, thus leaving ten thousand dollars.

A. Whatever damages I will prove I will get. Of course I have got to prove the damages.

190 Q. The claim for fifteen thousand dollars for the money you expected to make on the trip is a prospective damage?

A. Well, I will take the boat at what she was doing, and what she did do afterwards when I got her repaired, and she made four to five thousand dollars a week straight along. She was making that before, and she made it afterwards right along.

Q. What would the Lee be worth on a charter at that time per month; what could you have chartered her for?

A. I could have chartered her for—I expect a man would have chartered her, and would have given me ten to twelve thousand dollars for her a month.

Q. Ten thousand dollars a month?

A. A month; yes, sir; and twelve thousand dollars, probably. It was right in the heart of the business season. We were getting two dollars a bale for cotton then, fifty per cent. over the price we are getting now, about.

Q. Add that ten thousand dollars a month to the ten thousand dollars for repairs?

A. Wouldn't you expect a man to make money by chartering a boat? I don't expect to charter a boat and pay the same price I would make off her. That won't do.

Q. What other repairs did you make to the Lee besides repairing the broken place on her?

A. None at all.

Q. Didn't paint her up any?

A. No, sir.

Q. Didn't caulk her seams any?

191 A. No, sir; didn't do nothing; only repair that place. I wanted to paint her up, but the fellow got drunk and didn't do it. He got drunk, and I didn't push the men about it.

Q. Haven't I understood you to swear that your actual damage, leaving out prospective profits, is twenty-five thousand dollars?

A. Yes; the whole thing was twenty-five thousand dollars, fully that. It was not prospective damage. If you only pay me for the repairs that were done to the boat—the repairs cost, I suppose, wages and every thing, the repairs themselves cost in the neighborhood of——

Q. Your repairs cost about nine thousand dollars?

A. I consider I was damaged over thirty thousand dollars in the transaction—the reputation of the boat and everything. I wouldn't go over the same thing for fifty thousand dollars. I will state, under oath, I wouldn't go through the sinking of that boat and raising her, the reputation of the boat and everything, for fifty thousand dollars; I will state that under oath. You can put that down. I wouldn't take the chance of losing that boat and go through the same scene for fifty thousand dollars; not for fifty thousand dollars; because I have only sixty thousand dollars of insurance on the boat, and I never did estimate the boat at less than from a hundred and thirty to a hundred and fifty thousand dollars at that time. I wouldn't to-day take a hundred thousand dollars for her right now, as she stands right there now. She cost two hundred and twenty-one thousand dollars; and I be-

192 lieve, if anything, that the boat is now in the order I keep her in. I believe she is in as good order to carry a lot of freight, and better, as she was when she was three months old, because she has had a new deck put on her entirely since she came out; the boat shows no decay about her timbers at all.

James Oscar Nixon, jr., being duly sworn, says:

I took down the testimony of J. W. Cannon, in stenographic notes, on the 15th day of April, 1873, at the office of Alfred Ingraham, commissioner of the United States, No. 61 Camp street, in the city of New Orleans aforesaid, and that said stenographic notes contain strictly and literally all the testimony of said J. W. Cannon, and the foregoing one hundred and twenty-two pages contain the true and complete transcript and copy from said notes of said testimony taken at the time and place hereinbefore stated.

J. O. NIXON, JR.

Sworn to and subscribed before me, at the city of New Orleans, this 8th day of April, 1873.

ALFRED INGRAHAM, [SEAL.]
Com'r of the United States.

193 Testimony taken, New Orleans, April 4th, 1873. Present, R. H. Marr, esq., proctor for libellant; Given Campbell, esq., proctor for claimant.

JOSEPH L. ROBERTS, sworn for libellant, says:

Q. Were you on board the Robert E. Lee at the time of the collision with the Potomac?

A. Yes, sir.

Q. Where were you?

A. In the pilot-house.

Q. How long had you been in the pilot-house?

A. Before the collision?

Q. Yes.

A. I don't know. I was downstairs at Natchez.

Q. Did you go in the pilot-house when the boat left Natchez?

A. Yes, sir.

Q. When she was going out from the wharf-boat?

A. Yes; when she was ringing the bell I went upstairs.

Q. When she rang the bell to leave there you went up in the pilot-house?

A. Yes, sir.

Q. Who was the pilot in the pilot-house?

A. Charlie Pierce.

Q. Just state what happened.

A. Well, sir, after we got straightened up in the river, under way good, Pierce says to me, says he, "Look and see what time it is, partner." I looked at my watch; it was five minutes to twelve o'clock. I told him it was five minutes to twelve o'clock. Says he, "Well, stir up the
194 fire; get her red hot; the rat watch is coming on—we don't care for them." I stooped down——

Q. What fire did he want you to stir up?

A. The fire in the stove.

Q. That was in the pilot-house?

A. Yes, sir.

Q. What did he mean by the rat watch?

A. That was the other watch—just deviling each other—blackguarding. Each watch says something to each other as we go up. The night was cold—a very dark night. A very clear night we have to put a lump in at a time, of coal, and close the door—throw it in—the light generally blinds a person. I was getting the fire ready. I think the whistle blew for a boat; I raised up; I saw a boat's signal-lights. I never said nothing of course. I was standing at the stove looking at the boat, and I made the remark to Pierce, at the time, says I, "She has got very pretty signal-lights. Says he, "Yes." Right afterwards he said, "I wonder what is the matter with that fool," or "damned fool," or something of that kind. I stood and looked at her, and she commenced to swing. She was swinging to her left. I commenced to see her sideboard lights—her starboard sky-lights. He says, "The damned fool will run into us." By that time he had stopped the boat, and commenced to pull her towards the Natchez shore. I stepped up alongside and helped him myself while he was pulling. I was on one

side of the wheel and he was on the other. I was shoving, while he was pulling.

Q. Do you know anything about any backing bell being rung?

195 A. Yes, sir; as soon as he stopped her he backed her immediately.

Q. Did you hear any whistle from the other boat?

A. When she struck us the crash I heard two little whistles—toot, toot—just that way. It sounded as if the valve had been jarred, and the whistle blew from the jar.

Q. It sounded as if the valve had been jarred, and the whistle blew from the jar?

A. Yes, sir.

Q. When you first saw this boat—or saw her sky-light—how far off was she from you, do you think?

A. I have no idea.

Q. You were not a pilot?

A. No, sir.

Q. You don't know distances?

A. No, sir; distance at night is very deceiving anyhow.

Q. You saw her signal-lights very plain?

A. When I raised up from the stove, yes; and thought them very pretty.

Q. When you were putting coal in the stove your back was towards Pierce?

A. My face was down; the opening of the stove is aft, and I was stooping down; I couldn't see anything at all; I had the stove-door open, and the light had me blinded.

Q. Before you could see anything you had to raise up?

A. Yes, I had to stand up straight.

Q. After you saw her signal-lights you say you saw her starboard sky-lights?

196 A. Yes; I saw them just as Pierce spoke about that. Says he, "I wonder what is the matter with the damned fool," or something of the kind. I don't know exactly the language.

Q. Did you notice how far you were from the Natchez shore when she hit you?

A. No, I did not.

Q. You were a little excited about that time, were you not?

A. Yes, sir; I should think I was. As soon as we struck I left the pilot-house.

Q. Did you stay on the boat after that?

A. Yes; until the Grand Era came up.

Q. How long did you stay on the boat after the collision?

A. I forget now. Two nights and a day; I think two nights and two days.

Q. After the collision what was done with the Lee?

A. Well, sir; I heard the old man holloa to Pierce.

Q. Who do you mean by "the old man"?

A. Capt. Cannon. He holloaed to Pierce; says he, "Charlie, back her out from her', slow." By that time the Potomac was lying alongside of us, her head quartering a little to the Natchez shore. We backed out. I heard him say, "Don't go too God damned fast;" says he, "Back her slow." He backed out; and shortly he says, "Go ahead slow; get her on the bar, slow;" says he, "You can work her around and get her broadside on the bar." We got around, broadside on the

bar. He says, "I suppose that will do; you can stop her, and let the boat settle down."

197 Q. The boat settled down then?

A. Yes, sir.

Q. Did you notice Brown's saw-mill? Do you know where Brown's saw-mill is?

A. Yes; I know where it is; but I didn't see it that night; don't remember looking at it that night.

Q. The next day, while the boat was aground on the bar, did you see Brown's saw-mill; did you notice it?

A. I don't remember whether I did or not.

Q. You don't know which way Brown's saw-mill bore from the place where the boat got on the bar?

A. No, sir.

Q. Have you any idea whether the boat grounded on the bar above or below the place where the boats came together?

A. That I couldn't say.

Q. You first backed out and then went ahead? You don't know?

A. No, sir; I don't know.

Q. How old were you at that time?

A. How long ago has that been?

Q. How old are you now?

A. Just twenty; I will be twenty-one next June.

Q. How did these boats come together? What parts came together, and how were the boats laying with respect to each other? How were they with respect to each other at the time of coming together?

A. Well, sir, as well as I remember we were quartering a little to the Natchez shore; of course we were pulling off, trying to get

198 away from her. When she struck us I think she was in that position; she looked like she had caught us.

Q. Which way was her head pointing?

A. The Potomac's head?

Q. Yes.

A. I think up the river; towards the Natchez shore more than any other way.

Q. Did you see any part of the Potomac but her stem when she came into you? What did you see of the Potomac just as she was coming into you?

A. I don't remember; I just remember the position of the boat; a little after she struck she flopped alongside of us.

Q. A little after she struck she flopped alongside?

A. Yes, sir.

Q. Then her head was up-stream?

A. Yes; either up-stream or toward the Natchez shore, for it must have knocked us around some; her head was more up-stream than down; I am certain of that.

Q. Had you undertaken to steer the boat from the time she left Natchez?

A. No, sir; I couldn't steer in the daytime, let alone night; that was my first commencement.

Q. From the time you left Natchez until the boats struck did anybody leave the pilot-house?

A. No, sir; I don't remember of anybody leaving the pilot-house.

Q. Do you know whether Pierce left the pilot-house?

A. I am positive that he did not; he was steering the boat.

199 Q. I suppose you can't tell anything about how many revolu-

tions the Lee had made backing before the collision? You don't know anything about that?

A. No, sir.

Q. You don't know how far the boats were apart when Pierce stopped the engines?

A. No, sir.

Cross-examination:

Q. How long had you been running on the Lee before this collision took place?

A. Well, sir, I disremember.

Q. About how long?

A. I believe I left Kentucky the latter part of September, with Mrs. Cannon, and brought her down the river.

Q. Been running on the Lee after that?

A. Yes, sir.

Q. What were you doing? Learning the river?

A. I was steering for my uncle at the time—had nothing to do.

Q. Learning the river?

A. No, sir; I may have been learning it, but I did not intend to follow that for a living. I done it to put in the time.

Q. Who was in the pilot-house when you went up there that night, after the boat left Natchez?

A. Pierce. I think I got there first after the bell rung.

Q. How long after you got up there before Pierce came in?

A. Well, I don't know how long it was.

Q. Was he there when the boat rounded out from Natchez?

200 A. He had to be there, for I couldn't round her out; didn't know how to round her out.

Q. The boat pulled out from Natchez and made a long crossing over toward the bar, didn't she?

A. No, sir; we left the wharf-boat and got straightened up.

Q. Didn't she cross over toward the bar side?

A. Sir?

Q. Didn't she pull out towards the bar side when you pulled out from the wharf-boat?

A. I don't know. I don't remember. All I remember of is he told me—he asked me what time it was, and told me to stir up the fire.

Q. How long after you left Natchez was that?

A. We had just got under way.

Q. Just got under way?

A. Yes; both engines going.

Q. How far were you from Natchez when you were stirring up the fire?

A. Just above the coal-fleet—just opposite.

Q. How far is that?

A. I don't know.

Q. How far is it from the wharf-boat? I have never been there, and don't know anything about it.

A. I suppose we were four or five hundred feet.

Q. Above the wharf-boat?

A. Yes, sir.

Q. How long were you stirring up the fire?

A. I don't know. You have to open the door and put in a lump at a time; you can just imagine that.

Q. A big stove or a small one?

A. A small stove.

Q. It wouldn't take you long to put coal into it?

A. You know a boy generally likes to rat in a case of that kind. I took as long as I could; didn't feel like steering.

Q. You took as long as you could because you didn't feel like steering?

A. Yes, sir.

Q. Did Pierce want you to steer?

A. No; only help to pull down.

Q. You had had hold of the wheel before you went to put the coal in?

A. I helped him to get from the wharf-boat; yes, sir.

Q. Was there a bench in the pilot-house—a long seat?

A. No, sir; there's a place where the steps come up; there's a bulkhead railing; there a little bench on top of that, very short, just the length of the steps that goes down.

Q. What did you have in the pilot-house to sit down on?

A. There's a chair—a stool—as well as I can remember, and this short bench.

Q. Just a short bench?

A. It was just a board tacked on the bulkhead railing.

Q. What was Pierce sitting on—the bench or chair?

A. He wasn't sitting at all; he was standing.

Q. Where was he?

A. At the wheel.

Q. You were both at the wheel?

A. When was that?

Q. You were both at the wheel, I say?

A. When?

Q. Before you went and put the coal on.

A. Yes; that is when we were rounding out from the wharf-boat.

Q. Why was it necessary for you to be at the wheel?

A. It was not necessary for me to be at the wheel at all.

Q. Why were you at the wheel?

A. Just helping him to pull down.

Q. Why was it necessary for you to help him to pull down?

A. It was not necessary at all.

Q. Why did you say you took as long as you could to put the coal in, because you wanted to rat awhile so you needn't have to steer?

A. That is, to help him to pull down.

Q. Why did you have to help him pull down?

A. I didn't have to do it at all. I was just there passing away the time. He liked to have me to help him pull down to relieve the weight on the wheel.

Q. That was about twelve o'clock at night?

A. After we got straightened up the river, and the engines, both of them, going ahead, he says, "Partner, what time is it?" I looked at my watch. I had to step to the stove and open the door so as I could see my watch. I was behind the stove. I stepped around and looked at my watch, and it was just five minutes to twelve o'clock.

Q. You then were staying up in the pilot-house for your own amusement that night until after twelve o'clock?

A. I stood regular watch with him.

Q. Did you stand a regular watch with him, or was it a matter of choice with you?

A. I would rather do that than loaf around the boat.

Q. Was it a matter of choice with you?

A. Yes, sir; more a matter of choice than anything.

Q. Was it a matter of duty with you to stand a regular watch?
A. I don't know whether you would consider it a duty. I preferred doing that to doing nothing. I was waiting to take Mrs. Cannon home; until my visit was out I was on the boat.
Q. You were under no obligation to touch that wheel at all?
A. Yes, sir—no, sir.
Q. It was entirely a matter of choice?
A. Yes, sir.
Q. You didn't delay putting that coal in the stove to keep from having to take hold of the wheel?
A. Of course I did, like all young steersmen do; I didn't want him to say I was ratting on him; I took my time to put the coal in.
Q. After you got up you took hold of the wheel again?
A. No, sir; I raised up and saw the boat's signal-lights.
Q. Then you took hold of the wheel?
A. No, sir; I didn't take hold of her wheel until after he made the remark, "What is the matter with that damned fool?" I stepped
204 back and took hold immediately and commenced pulling down; he stood on the opposite side of the wheel.
Q. Which way did he pull?
A. Towards the Natchez shore.
Q. Did he pull hard?
A. He pulled as hard as he could, and I shoved as hard as I could.
Q. How many revolutions of the pilot-house wheel did he make?
A. I couldn't say; I don't know; haven't the slightest idea.
Q. He revolved it until he got it tight and hard down?
A. It was hard down.
Q. How long was it hard down before you hit that boat?
A. I don't know; I couldn't say; I was so much frightened that I couldn't say exactly; I couldn't specify any time whatever.
Q. Sir?
A. I couldn't specify any time of how long it was.
Q. How far off from the boat were you at the time your wheel was hard down?
A. Well, I don't know.
Q. Give us an idea; half a mile—quarter of a mile; was she two hundred yards—a hundred and fifty yards?
A. She seemed to be about two lengths of the boat.
Q. That is about——
A. Six hundred feet.
Q. Is that two hundred yards?
A. Yes; six hundred feet.
205 Q. The time your wheel was hard down?
A. Yes.
Q. To the right?
A. Yes; may be not that far; about a length and a half of the boat; about four hundred and fifty feet.
Q. How far off was she when you rang your backing-bell—your stopping-bell I mean?
A. Well, I don't remember.
Q. Come to it as near as you can.
A. If I say, I may say not right; I haven't the slightest idea how far she was; I could say something——
Q. You can form an estimate?
A. I suppose she was four or five hundred yards.
Q. When you rung your backing-bell?

A. No, sir; not when we rung the backing-bell.
Q. When you rung the stopping-bell?
A. When we rung the stopping-bell I suppose she was about four hundred yards; I am not positive; I just make a guess, that's all; distances at night I can't tell.
Q. How far was the boat off when you first saw her?
A. That's what I don't know; I couldn't say.
Q. How far off was she when you commenced ringing your backing-bells?
A. I suppose about four hundred yards.
Q. Do you know whether any backing-bells were rung or not?
A. On our boat?
Q. Yes.
A. Yes; I do.
206 Q. Do you know whether any stopping-bells were rung?
A. Yes.
Q. How do you know it?
A. I saw him when he rung it.
Q. Did you hear them?
A. I don't know whether I heard them or not, but I saw him pull the bell-rope.
Q. You saw him pull the bell-rope?
A. Yes, sir.
Q. You don't know whether it rung or not?
A. No, sir; I couldn't say whether it rung or not; but I know she stopped, for she stopped 'scaping.
Q. Did you see Pierce take anything to drink that night?
A. No, sir.
Q. Where did you go after you left the pilot-house?
A. I went down and stood on the roof, 'side of the pilot-house, right after she struck.
Q. On the roof?
A. Yes; that is, down on the roof, not on the texas roof, but on the roof.
Q. The hurricane roof?
A. Yes, sir.
Q. The roof of the boat?
A. Yes, sir.
Q. How long did you stay there?
A. I don't know; I heard a conversation between Cannon and Pierce; he says: "Charlie, back her out slow."
Q. Where was Cannon at that time?
207 A. On the roof, forward.
Q. Are you certain of that?
A. Sir?
Q. Are you certain of that?
A. I wouldn't swear it was him; it sounded like his voice.
Q. Did you see him?
A. I couldn't tell; I could see something up there; I thought it was him from his voice.
Q. You couldn't tell whether it was Cannon or not?
A. I think I knew his voice.
Q. You couldn't swear whether he was on the roof; you only know it was his voice talking to the pilot?
A. That's all I know. I know it was his voice; that is, it sounded like it.

Q. What sort of an angle was the Lee making towards the Natchez shore at the time the collision took place?

A. About in this position; about forty degrees. I can't tell exactly, of course.

Q. What was the shape of the Potomac just as she struck the Lee?

A. At the time the Potomac struck the Lee, she, the Potomac, was more headed up-stream than she was down.

Q. How far was the Lee from the bar shore?

A. Well, I don't know.

Q. How far was she from the Natchez shore?

A. That's what I don't know. I couldn't say.

Q. You don't know her position in the river exactly?

208 A. Yes; I think I do; I think that was about her position, the way I showed you.

Q. You say the Potomac's head knocked you around?

A. I suppose it must have; but I don't remember how far it knocked us around. It must have knocked us some.

Q. Which way did the Lee go after the Potomac struck her?

A. We backed right out from her.

Q. Backed right out from her?

A. Yes, sir; then went over to the bar side of the river.

Q. Lay alongside some little time?

A. It wasn't very long, I know; I was up on the roof, and the old man, I believe it was Capt. Cannon, holloaed to Pierce to back her slow, no' too fast, and run her upon the bar slow.

Q. Don't you know that the Lee was running pretty close up to that bar when you first saw the light of that steamboat?

A. No, sir; I do not.

Q. Do you know how close she was to the bar?

A. No, sir; I do not.

Q. Have you any idea?

A. No, sir; for I may say, and I would be telling a lie, for I don't know—haven't the slightest idea.

Q. Can you swear positively that she didn't take a sheer and run off from that bar?

A. I can swear that she didn't take a sheer on him.

Q. Can you swear that she didn't run off that bar, positively?

209 A. I don't understand you; what we call running off is when the boat runs away from the pilot and he loses control of her.

Q. I don't mean losing absolutely the control. Can you swear that she didn't run off from the bar?

A. I don't know whether she was close enough to run off. But I know he pulled her from the bar toward the Natchez shore, and I helped him. I don't know whether he was pulling or she was sheering; the bar was on that side.

Q. You don't know the direction she was heading at the time you were stooping at the stove?

A. She was headed up-stream.

Q. She might have run off a little from that bar while you were putting coal in the stove?

A. That is what I don't know; she wasn't close to the bar when I was putting the coal in.

Q. How do you know she wasn't?

A. Because I had just left him; she couldn't have come that quick.

Q. While you were putting the coal in the stove?

A. No. sir.

Q. How long, after you saw the lights of that boat, before she commenced veering over towards the Natchez shore?

A. Well, I don't know; I suppose a minute, or two minutes, or three minutes; I don't know positively; I forget the time; I was frightened myself, being my first experience on the river.

Q. Then you did see her make towards that Natchez shore?

A. Yes, sir; after Pierce spoke I saw her starboard lights,
210 her sky-light lights. Pierce spoke just at the time that I saw a glimpse of her lights. He spoke, and says, "I wonder what is the matter with that damned fool," or "fool." He says, "God damn it, she will run into us."

Q. How far off were they?

A. I don't know. I suppose she was about four hundred yards. I don't know. I just make a guess. I am not positive.

Q. As soon as ever he saw them, and made that remark, he commenced to pull her over to that shore?

A. He commenced to pull before. Well, I don't know exactly. He was pulling over, and I stepped up alongside, and helped him to shore.

Q. He was pulling over when you stepped to him and helped him to shore?

A. Yes, sir.

Q. Did he made the remark before that or after?

A. Just before that; because I got frightened.

Q. You say then the boat was four hundred yards off?

A. I think so. I couldn't say positively.

Q. Then he rung the backing-bell?

A. He stopped the engines—then rung the backing-bells. I don't know whether the engines stopped.

Q. After he made the remark, "The damned fool is going to run into us," he pulled his bell?

A. I don't remember whether it was before or after—I forget which.

Q. You can't recollect?

A. No, sir.

Q. What were you doing when he was pulling the bells?

211 A. I was looking right at him.

Q. What were you doing; standing at the wheel?

A. I just raised up from the stove.

Q. As he pulled the bell?

A. Yes, sir.

Q. Then you stepped up to the wheel?

A. Yes, sir.

Q. He was pulling at the time to the right, was he, when you stepped up and caught hold of the wheel?

A. I was standing by the stove when he pulled; that was what made me step up.

Q. When you caught hold of the wheel, after you saw him pull the bell, he was pulling the wheel to the right, and you stepped up and helped him?

A. Yes, sir; what we call running off is when we lose control of a boat.

Q. How far could you see the lights of a boat such a night as that?

A. I haven't the slightest idea.

Q. You saw these lights very plainly and distinctly?

A. Yes, sir; that is, the signal-lights first.

Q. How far off was the boat at the time you saw the change take place—the apparent change take place in her signal-lights, you know?

A. Well, I don't know, sir.
Q. Can't you give an idea?
A. I could say something, but it would be a mere guess.
Q. You say she was about four hundred yards off when Pierce made the remark?
212 A. It was just about that time.
Q. That the change commenced; just about that time?
A. Yes; just about that time.
Q. He says, "The damned fool is going to run into us"?
A. Yes, sir; something of that kind—the damned fool, or something.
Q. Then he commenced pulling hard on his wheel?
A. Yes, sir.
Q. Then you are not certain whether he backed her just as he made that remark or before he made that remark?
A. That is what I don't know. I know he backed—stopped and backed her. He rung all the bells; both stopping-bells and both backing-bells.
Q. You said awhile ago that she stopped when she was about four hundred yards off, and backed about the same time?
A. Yes, sir; that all occurred about the same time.
Q. The remark and all occurred about the same time?
A. I suppose so; I don't remember exactly.
Q. What I wanted to get at was, how long before he rang the bells was it that he commenced to pull the boat to starboard?
A. I believe it was immediately afterwards, as well as I can remember.
Q. Immediately afterwards?
A. Yes, sir.
Q. Just as soon as he rang the bells he commenced pulling to starboard?
213 A. Yes, sir.
Q. Almost instantaneously?
A. Yes, sir.
Q. It occurred about the same time?
A. Yes, sir.

Redirect examination:

Q. Mrs. Cannon is your aunt, ain't she?
A. Yes, sir.
Q. You didn't intend to learn the business of piloting?
A. No, sir.
Q. You haven't followed that?
A. No, sir.
Q. Were you under any pay on the boat?
A. No, sir.
Q. Are you under any pay on the boat now?
A. No, sir.
Q. About this steering; do you know any more about steering except helping Charlie Pierce to push the wheel?
A. That's all; what they call treading the wheel, I couldn't do it.
Q. All you could do was to stand one side, while the pilot was on the other, and you put your hand on the spokes and helped him to turn the wheel over?
A. That's all.
Q. That is what you did coming out from Natchez?
A. Yes, sir.

Q. When you stepped up just before the collision you first helped him to turn the wheel over?

A. Yes, sir; that's all.

214 Q. How much steering had you done up to that time on any boat?

A. That was the first boat I ever steered on in my life.

Q. How much steering did you do on that boat?

A. You can't call that steering, because I never steered in my life. I only helped to pull down.

Q. Was your uncle one of the pilots on that boat?

A. Not at the time of the collision. He was the trip before. He stopped off that trip, and Pierce took his place.

Q. Was your uncle a man of a feeble state of health?

A. I believe he was a man of health. I don't know what he stopped off for.

Q. You say he had stopped off and Pierce took his place?

A. Yes, sir.

Q. That trip?

A. Yes, sir; that trip.

Q. When your uncle was on board the boat had you stood watch regularly with him?

A. Yes, sir.

Q. What did you do for him?

A. Just the same as I did for Pierce—pushed and pulled.

Q. State whether a person of your size and strength could tread upon the wheel and turn it over; state whether you had strength enough of yourself to manage the wheel of a steamboat.

A. No, sir; I had not. I could pull the wheel hard down; if she was running slow, going down-stream, I might pull it down by myself.

215 Recross-examination:

Q. How much do you weigh now?

A. I suppose about a hundred and thirty-seven pounds.

Q. How tall are you?

A. That's what I don't know.

Q. Very near six feet, ain't you?

A. Well, I don't know.

Q. You look to me like a pretty stout young man; don't you consider yourself so?

A. I don't know whether I consider myself stout. I am able to take care of myself, though.

Q. You were pretty well grown at eighteen, weren't you; pretty near as big as you are now?

A. I don't know; a person never notices your own growth, you know.

Q. What attracted your attention to the Potomac; the remark of Pierce?

A. No, sir.

Q. Did you see the lights before that?

A. I saw the lights before that.

Q. Before you heard her whistle?

A. She must have whistled when I was stirring up the stove.

Q. You heard a whistle, but didn't know where it came from?

A. No, sir; I don't say I heard a whistle. I only remember hearing a whistle on her when she struck us. I was standing at the stove, and raised upt. It must have been from a boat whistling. I raised up and saw her there.

Q. You raised up and looked?

A. Yes.

216 Q. It must have been the whistle of the boat that attracted your attention?

A. Yes, sir.

Q. Then you didn't know the boat was coming before that?

A. No, sir; I didn't know there was any boat coming.

Q. Did the Lee whistle that night after you saw the lights of that boat?

A. She whistled——

Q. After you saw the lights of that boat?

A. No, sir; not after I saw them.

Q. She didn't whistle after you saw the lights of that boat?

A. No, sir; she didn't. I was standing at the fire and raised up and then saw her.

Q. The first thing you knew of any boat coming down the river was when you raised up and saw her lights?

A. Yes, sir.

Q. That was the first intimation you had that there was a boat, unless it was from the whistle which you might have heard, but which you don't remember distinctly?

A. No, sir; that's all.

Q. Have you any idea how many times the Potomac did whistle?

A. When she whistled it was when she struck us; two short whistles.

Q. Before that?

A. She didn't whistle before that; I don't remember hearing her whistle before that.

Q. You are not positive, though, that she didn't whistle?

217 A. No, sir; not positive that she didn't whistle.

Q. It might have been her whistle that attracted your attention to raise up and look and see what it was?

A. I don't know. It might have been our boat's whistle.

Q. Your boat's whistle is right above the pilot-house?

A. Yes, sir.

Q. Could you mistake that?

A. I don't know. Many times in the pilot-house you don't notice that. Oftentimes the pilot will ask me, "Have I blown the whistle?"

Q. Ain't the Lee's whistle very loud and musical?

A. Yes, sir.

Q. Don't it vibrate and shake things?

A. No, sir; it don't shake anything.

Q. The noise of it vibrates?

A. It is a very pretty whistle and sounds very loud.

Q. Don't you know that if you heard your boat's whistle that night you would have recollected it?

A. No, sir; because often in going to a landing the pilot will ask me, "Have I blown the whistle for this landing?" and I would tell him "Yes," or "I don't know whether you have or not," many and many a time.

Q. Can you swear positively, of your own personal knowledge, that the Lee did blow her signal that night before you saw the lights of the Potomac or after you saw the lights of the Potomac?

A. I couldn't swear that at all.

218 Q. You couldn't swear it?

A. No, sir.

Q. Don't you know that under the circumstances, a collision having taken place between those two boats, that if the Lee had have blown her whistle that you would have been very apt to have remembered it?

A. No, sir; because they asked me that very night, and I told them I didn't remember.

Q. Who asked you?

A. Two or three parties on the boat.

Q. Who were they?

A. I forgot who they were.

Q. Did Cannon ask you?

A. No, sir.

Q. Who was it?

A. I don't remember; we were all sitting in the hall of the texas; that was after we had sunk.

Q. They asked you up there if the whistle had blown?

A. They asked me if I heard it blow; some made the remark they heard the whistle and some said they didn't; they asked me if it had whistled; I told them I didn't know whether it had or not; I have seen a pilot blow his whistle, and a minute or two afterwards turn around and ask me if he had blown it; very often it is that way.

(Signed) J. L. ROBERTS.

James Oscar Nixon, jr., being sworn, deposes and says:

I took down the testimony of Joseph L. Roberts, in steno-
219 graphic notes, on the 4th day of April, 1873, at the office of Alfred Ingraham, commissioner of the United States, 61 Camp street, in the city of New Orleans aforesaid, and said stenographic notes contain strictly and literally all the testimony of said Joseph L. Roberts, and the foregoing seventy-four pages contain the true and complete transcript and copy from said notes of said testimony taken at the time and place hereinbefore stated.

J. O. NIXON, JR.

Sworn to and subscribed before me, at the city of New Orleans, this 8th day of April, 1873.

ALFRED INGRAHAM, [SEAL.]
Com'r of the United States.

Testimony taken in New Orleans April 8th, 1873. Present, R. H. Marr, esq., proctor for libellant; Given Campbell, esq., proctor for claimant.

ABRAHAM N. GOULD, sworn for libellant, says:

Q. What is your occupation?

A. Planting.

Q. Where do you reside?

A. Tensas Parish, Louisiana.

Q. What was your former occupation?

A. I was a shipmaster before the war—a seafaring man.

Q. Have you ever been engaged in the navigation of the Mississippi River?

A. Yes, sir.

Q. Do you know the river in the vicinity of Natchez?

220 A. Yes, sir.

Q. Were you on board the R. E. Lee at the time of the collision with the Potomac?

A. Yes, sir.
Q. In what capacity?
A. Passenger.
Q. Where did you get on board?
A. New Orleans.
Q. Came on board here?
A. Yes, sir.
Q. State now how that collision occurred, what you know about it, where you were at the time it occurred, and what you saw and heard.
A. At the time of the collision or crash, I was sitting in the sociable by the stove, and I heard the crash, I would call it of the collision; I got up and run out of the port door—the larboard door they call it—port we express it in seafaring phrase—on to the boiler deck. There I saw a steamer into us; she was into us, and swinging around, or swung around alongside of us, on the port side. I turned back, and made the remark to some one in the social hall—one of the clerks I think—and told him that the Potomac was into the Lee, or into us—into the Lee—that was the remark I made. He remarked that there was no such boat on the river. Afterwards he corrected himself, and said there was one, I believe, coming out from the Ohio River of that name; I went from there down on to the main deck. When I got there, the Potomac had dropped on past us. When I got there, I saw we were
—I got rather forward on the port bow—I saw no one down
221 here. I looked up on the hurricane deck, and saw some one there. I hailed out to him that they had better run her ashore, as we were sinking—filling with water; when this person gave the order, as I thought, to the pilot, and we steamed ahead and went on to the bar, in about eight or nine feet of water—the lead was put over to see—when we sunk. That 's about how it happened.
Q. Did you put the lead over yourself?
A. No, sir; but I saw it done.
Q. Before this collision occurred had anything happened to attract your attention in any way—did you hear anything?
A. No, sir; I heard nothing. I think, though, I did hear the bells of the boat—of the Lee—as I jumped from my seat.
Q. But you don't recollect?
A. No, sir; I think that was Capt. Cannon that I hailed on deck—in fact, I am very positive of that—on the hurricane deck.
Q. When you came out and saw these two boats first, what were their positions, relatively?
A. The Lee was heading up the river.
Q. Did you take any observation to verify the position of the boat?
A. The Lee was heading up the river, and this boat was coming in—laying in and swinging around. I saw her name—that was the first thing I saw on her, was her name. I saw her name on the paddle-box.
Q. At what time was it that you first saw the name of the Potomac on the paddle-box?
A. When I first went out of the social hall on to the boiler deck.
222 Q. How do you think the head of the Potomac was pointed relatively to the Mississippi shore—the Natchez shore—at the moment of the collision when you got out there?
A. I can say that I think—as near as I can judge, this boat was backing.
Q. (By proctor for claimants, Mr. CAMPBELL.) Which boat was backing?

A. The Potomac, I think, was backing.

Q. Which way do you think her head was?

A. She didn't back with force enough; she swung right alongside; she dropped along down by her.

Q. Did you observe particularly the position of the two boats when you got out there?

A. The position?

Q. Did you observe particularly the position of the two boats when you got out there?

A. Yes, sir. I looked around to see where we were, and, when I found we were filling with water, about getting ashore; I was acquainted there, and it is deep water where we lay.

Q. Deep water where you were?

A. Yes, sir.

Q. How far was this point of collision from Brown's saw-mill, or do you know where Brown's saw-mill is?

A. Yes, sir; I know; it is a trifle below, or nearly opposite; very near opposite.

Q. Brown's saw-mill?

A. Yes, sir; that is my impression.

Q. Do you know how far Brown's saw-mill is from the wharf-boat at Natchez?

223 A. I think it is a mile; it is about a mile, or a mile and a quarter; something of that kind; a mile I think; I should judge it that distance.

Q. Do you recollect whether you observed that shore or not at the time you went out?

A. Yes, sir; I looked at the shore on both sides.

Q. How far do you think the Lee was from the Natchez shore at the time the collision occurred—that side of the river?

A. I took it to be, according to my judgment, on the main deck, where I was, to be about midway the river.

Q. About midway the river?

A. About midway the river.

Q. You had navigated along there before, yourself?

A. Yes, sir; during the war.

Q. As commander of a vessel?

A. Yes, sir.

Q. Was that the way that you became acquainted with the localities there, and the depth of water, by having navigated there?

A. Yes, sir; I have made that landing both night and day; during the war there used to be a coal station. While I belonged to the United States Navy, I came down at all times.

Q. There used to be a coal station?

A. Yes; where we used to take our coal when I belonged to the Navy; we used to take our coal at Natchez.

Q. From what you saw of the position of the two boats, and the effects of the shock, would the collision have tended to change the head of the Lee in any way?

224 A. I think not.

Q. In your judgment, would the blow have brought the head of the Lee further towards the Louisiana shore?

A. I wouldn't suppose it would change the position a great deal.

Q. The blow you said was on her larboard side?

A. On her larboard bow; yes, sir.

Q. Which bow was presented to the Louisiana shore?

A. The starboard, going up.

Q. Can you state how the Lee was pointing? Locate her in the river as nearly as you can; state in what direction her bow was pointing at the time you saw her.

A. As I have stated before, she was headed directly up the river, on her usual course that boats take going up the river, I think boats generally, when they go to leave the wharf-boat—I think, generally; I don't know that this boat did; they generally make over for that bar, towards the Louisiana shore—usually go across to slackwater.

Q. (By proctor for claimants, Mr. CAMPBELL.) Talk a little louder.

A. Boats generally don't follow the bend of the river; they generally make over to the Louisiana side at that point; I have always done it, and my pilots have done it in going up the river, when I had command of a vessel.

Cross-examination:

Q. Whereabouts were you sitting at the time this collision took place?

225 A. I was sitting by the stove in the social hall.

Q. Who else was there sitting around the stove?

A. I think there was Gus Watson, Eli Tullis, Reeve Lewis, and several others that were passengers.

Q. Do you recollect the names of anybody else?

A. I think Captain Cannon had been in there; he was there, standing there; I am not certain whether he was sitting down; I think he was standing by a chair at that time.

Q. Standing by a chair?

A. Yes; about that time, or just before.

Q. Did you see Cannon when he went out of the social hall?

A. Yes, sir; he went out about the time, or a little before me; he had the start of me, because I was sitting down, and he was standing at the back of the chair the last I recollect seeing of him in the social hall.

Q. He went out a little before you?

A. Yes, sir.

Q. How long before?

A. I couldn't tell you exactly the time.

Q. Did you see him going out?

A. No, sir; he went out ahead of me; I don't recollect of seeing him go out; I couldn't say I saw him; he had been there; we had been talking about some transactions of cotton, etc.

Q. What induced Cannon to go out?

A. I couldn't tell you.

Q. Was he there when the crash came?

A. That I——

Q. To your best recollection?

226 A. I can't exactly say of that to a certainty.

Q. What is your belief about that? Your recollection is what I want.

A. I think that he was there when the first confusion commenced. Whether the crash, or breaking of the timbers—that's what started us passengers.

Q. Standing by the stove, with his back to the stove?

A. No, sir; he was facing the stove. You see the cabin was towards the bow of the boat.

Q. With his back to the stove or with his face to the stove?

A. Face to the stove.
Q. Was he engaged in conversation?
A. He had been conversing.
Q. What were you all talking about?
A. We were talking about some charges, I think, on some cotton, etc., that had been put through——
Q. The pickeries?
A. The pickeries; yes, sir; I think so.
Q. What door did you go out?
A. I went out on the port side.
Q. Are you certain of that?
A. Yes; I am certain I went out on the port side—the bar side.
Q. Which door did Cannon go out?
A. He went out on the other side.
Q. The starboard side?
A. Yes, sir.
Q. Are you certain of that?
A. I think he went out there; I am quite certain of that. If he had went out the other way, I would have seen him, for I was facing
227 more that way, sitting at the stove. The rest of the passengers went back in the saloon; hopping back through there lively—as far as I know.
Q. The rest of them went back in the saloon?
A. I think they did; yes, sir.
Q. Where did you go when you first went out?
A. I went on to the boiler deck, as I have stated.
Q. How long did you remain there?
A. But a few minutes; just saw that the boat was into us, and the name.
Q. I will ask you another question: Did you hear any whistle on the Lee that night?
A. Before that crash occurred I heard no whistle.
Q. None at all?
A. No, sir.
Q. Hasn't the Lee got a pretty loud whistle?
A. Yes, sir; a pretty good whistle.
Q. Are you hard of hearing?
A. No, sir.
Q. Don't you believe you would have heard that whistle if it had blown a long, loud whistle that night?
A. I will say, in regard to that, I might have done so, and ought to have done so; but it was a possibility—we were talking, etc.—that I wouldn't.
Q. Wouldn't the chances have been very much in favor of your hearing that whistle?
A. Yes; I think it would.
Q. You heard the bells of the Lee ring just at the crash?
A. I think it was a little—a trifle before the crash.
228 Q. How long before?
A. Not much.
Q. Was it half a minute before?
A. I couldn't say.
Q. I will ask you this: Wasn't the ringing of those bells and the crash—the striking of the two boats—almost cotemporaneous?
A. Pretty near together.
Q. Sir?

A. Pretty near together. I couldn't tell you what those bells were for.

Q. Were they the only bells you heard prior to the crash?

A. Yes; that's all I heard; I heard the jingle of the bell; I jumped up soon afterwards.

Q. In your direct testimony you say that when you ran the river there you usually made over towards the bar after leaving the wharf-boat?

A. Leave the wharf-boat, and above the wharf-boat gradually make over.

Q. Is that the usual and customary course for an ascending boat leaving the wharf-boat at Natchez?

A. I should suppose it would be.

Q. Sir?

A. I should suppose it would be.

Q. Do you know whether the channel of the river has changed materially since you used to run it on United States gunboats?

A. I think the bar has made out more; I think it has dropped down the river more than it used to be—worked down.

Q. When you went out on the boiler deck did you see anybody out there?

229 A. No, sir.

Q. Did you see Campbell, who was steward of the boat, prior to this collision?

A. I saw him at various times while we lay at the wharf-boat.

Q. I mean just before the collision; did you see him about the social hall there?

A. I don't recollect; I saw him about the time, I believe; he was hopping around there.

Q. That was afterwards, wasn't it?

A. I think it was. I don't remember where Campbell was.

Q. You don't remember to have seen him before the collision?

A. I don't remember where Campbell was when I started to go out; I don't remember seeing him.

Q. How far was Cannon in front of you, or about how far, when you started to go out? How much start had he of you?

A. That I couldn't judge of. I know he went a trifle some ahead of me.

Q. A trifle in advance of you?

A. Yes, sir.

Q. You were both moving towards the door at the same time?

A. I didn't see him.

Q. You said you know he went out of the starboard door, and saw him go out?

A. Yes; I saw him go out and leave the chair.

Q. How long did he leave the chair before you got up and started; I want you to be particular about that.

A. I couldn't state the exact time.

230 Q. I know; but was there any appreciable time that you could say—any length of time at all between the time of his leaving the chair and starting out, and your getting up, leaving the chair, and starting out?

A. No, sir; I couldn't fix any time.

Q. I will ask you this: Don't you know that Cannon started out after this collision took place, or after the confusion or noise of the collision

took place? I ask you to testify that according to the best of your recollection; that is an important matter.

A. If he went out when I went out he must have gone out—it couldn't have been but a very short time before the crash. I am speaking of the first crash.

Q. I know; but I ask you this.

A. According to my recollection?

Q. According to the best of your recollection didn't he leave after the crash, or just at the time of the crash?

A. He didn't leave after the crash.

Q. Then, at the time of the crash? Time is a matter of great importance to me.

A. I know it is. I couldn't say the exact time.

Q. About how long?

A. It was a very short time.

Q. Was it half a minute, according to the best of your recollection?

A. I wouldn't like to place any time.

Q. How far would a man have time to walk from the time Cannon got up and started out of the hall of the boat?

231 A. I think he was on his feet.

Q. From the time he was on his feet?

A. He might have been. I am under the impression he was on his feet all the time.

Q. How far would a man have time to walk—what distance, I mean—from the time Cannon started out of that door until you got up and started out after him?

A. Well, a person could have run——

Q. No—walk. I am not talking about running. I want to come down to the facts. How far would a man have time to walk? Running is a different thing from walking. We want the facts of this thing. All I want is for you to give your honest opinion on this matter.

A. I can tell you candidly I couldn't place the exact time or distance that Cannon was ahead of myself.

Q. Had he got out of the door when you got up to go out?

A. I think he had got out of the door when I got up.

Q. How long had he been out of the door when you got up to go out?

A. That I couldn't tell you.

Q. Was it half an hour?

A. No, sir; not that. I don't think we had been away from the wharf-boat half an hour.

Q. Was it five minutes?

A. No, sir; I don't think it was.

Q. Was it a minute? You see you are testifying according to the best of your knowledge and belief, on oath.

232 A. When you come down to a minute, I couldn't get so close as that. No, sir; I couldn't recollect. It was but a short time; that's all I can say.

Q. Would a boat have an opportunity of running a hundred yards between the time of leaving and the time the crash occurred?

A. Two boats coming together—coming pretty fast?

Q. Would a boat have an opportunity of running a hundred yards between the time the crash occurred and the time that Cannon started out?

A. She couldn't go a great ways—I couldn't say the amount in yards. Two boats—if they are boats coming together—running in opposite directions—meeting—they can run a good ways in a very short time.

Q. Where neither one of them have stopped?
A. Yes, sir.
Q. Suppose either one of them had stopped, or both stopped?
A. It would be some time going a hundred yards, then.
Q. Would they have had time to run a hundred yards between the time Cannon left the stove?
A. That would depend upon the speed.
Q. I see you don't want to answer the question.
A. I could answer it; but I can't answer it, as a man of any practical sense—as I suppose—couldn't answer a question of that kind, because I don't know the speed of the two boats. In a thing of that kind you couldn't say.

Q. What made Cannon get up and go out; did he go out fast?
233 A. I think he did.
Q. What made him get up and go out?
A. That I couldn't tell you—that part of it. I know what made me get up.
Q. You stated awhile ago that he went out after the confusion commenced?
A. Yes, sir; I think he did.
Q. How long after the confusion commenced before you went out?
A. When I heard the crash I went out.
Q. How long after the confusion commenced before you went out?
A. The crash was shortly after the confusion. I couldn't state the minutes.
Q. What do you mean by the confusion?
A. I heard a noise—people talking.
Q. Where did you hear the people talking?
A. On the boat somewheres—some part of the boat somewheres—I couldn't tell you where.
Q. What were they doing?
A. Holloaing—loud talking. I heard holloaing and loud talking.
Q. Whereabouts was that loud talking?
A. I couldn't place it; it was outside somewheres.
Q. That attracted your attention to——
A. The noise of it did; yes, sir.
Q. And almost immediately afterwards the collision took place?
A. Yes, sir.
Q. Then you immediately went out?
A. I immediately jumped up and went out.

Q. Then, did you see Cannon when you went out?
234 A. The shock was so great it almost took us out of our chairs.
Q. Did you see Cannon as soon as you ran out?
A. No, sir.
Q. You did not?
A. No, sir.
Q. Where was he?
A. I don't know.
Q. You didn't see him when you went out?
A. No, sir.
Q. Did you see anybody when you went out there?
A. No, sir; I went down on the boiler deck.

Redirect examination:

Q. Haven't you been on steamboats when whistles were blown without attracting your attention particularly?

A. I presume I have.

Q. Nothing had occurred to attract your attention particularly that evening up to the moment of your feeling the shock, had it?

A. No, sir; I think there was some confusion there before I heard the racket.

Q. You think there was some confusion there before you heard the crash?

A. Yes, sir; just a little before I heard the crash I heard some little—but not enough to disturb me to get up, or anything. I just sat there.

Q. There was some little confusion in the social hall, you meant to say?

A. Some little talking. I wasn't talking.

Q. How many persons were there engaged in conversation in the social hall?

235 A. I think there was one of the clerks, Reeve Lewis, Gus Watson, Eli Tullis, and some others about there.

Q. Was the conversation loud?

A. No, sir; ordinary.

Q. Do you know whether the Lee escapes in her chimneys or not?

A. I think she does.

Q. Sir?

A. I think she does; yes, when she is under way.

Q. Isn't the Lee's escape a loud one, sir?

A. Yes, sir.

Q. How far do these chimneys into which the Lee escapes pass from the place where you were all sitting, in the social hall? How far were you from the chimneys of the boat?

A. I couldn't give you the exact distance.

Q. About what distance?

A. I am not well enough acquainted with the construction of the boat to state the distance.

Q. You were in the forward part of the boat, though?

A. Yes; I was at the stove in the sociable.

Q. Do the chimneys come up forward or come up aft? Whereabouts are the chimneys of the Lee located?

A. In the forward part of the boat—forward.

Q. Are you able to state whether they were somewheres near where you were sitting, without being able to fix the distance?

A. Yes, sir; they are not a great many feet. I couldn't give you exactly.

Q. You stated that Cannon had been talking to you?

236 A. No, sir; I didn't state that he had been talking to me.

Q. He had been talking there; engaged in conversation, had he?

A. Yes, sir.

Q. You were not talking to him particularly then?

A. No, sir.

Q. Did anything occur to attract your attention particularly?

A. I don't think I was talking to any person particularly; I was more of a listener than entering into conversation myself.

Q. What had occurred to attract your attention particularly to Cannon?

A. I think Cannon had call' on his clerk to get some letter; I think, according to my recollection, in regard to some charges on a bale of cotton that had been sent to the pickery; that was before—soon after leaving the wharf-boat.

Q. Did you see Cannon when he went out of the door?

A. I think I saw him leave the chair.

Q. You think you saw him leave the chair?

A. I think so; I cannot place to a positive certainty whether he was sitting in that chair or standing by the back of it; but my impression is that he was standing there; that is my impression.

Q. You saw him leave?

A. He was at the forward part of the stove.

Q. You saw him leave the chair?

A. Yes, sir; I saw him leave the chair; I think he left the back of the chair.

237 Q. When did you see Cannon next after that—after you saw him leave the chair?

A. I am very positive Cannon, the next time I saw him, was on the hurricane deck; I was on the main deck; I looked up and saw some one, or I thought—we were filling pretty fast with water; it was necessary to get some place where we would be safe.

Q. If I understand you correctly, you saw Cannon leave the chair, and you saw him no more after that until you came down on the lower deck, and saw him then on the hurricane deck?

A. Yes; I am quite positive; it was quite a dark night, but I am quite positive it was Cannon; he was a tall man, and his voice, that was the way I recognized him.

Q. How far are the engine bells located from the place at which you were sitting?

A. I couldn't give you the distance; I have always never been in any capacity on these large passenger boats except as a passenger.

Q. You don't know where the bells were located?

A. I don't know; in the engine-room, I presume.

Q. Yes; I know; but I was speaking about the distance from you?

A. No, sir; I could't give you the distance.

Q. What occurred to make you take note of time that night, or to observe the time?

A. I don't know that I could make any statement in regard to any time——

Q. Sir?

A. I know it was sometime about midnight that we left

238 Natchez; we were anxious to get home, all of us were; we were talking about getting home before daylight; it was natural.

Q. What occurred to make you observe the time that occurred between the happening of any two events?

A. Nothing special.

Q. I must get it out of you in some way or another, whether or not you troubled yourself to fix the time between the happening of events.

A. I couldn't do it.

Q. I want to know if you know anything about time that night?

A. I was sober. Those collisions happen, and a man has a thousand things revolving through his mind. I have been in many dangerous spots in my life, and I always notice I have a great deal of presence of mind; many things to the exact minute is very hard to be remembered at so long a lapse of time.

Recross-examination:

Q. You say you know you saw Cannon leave the chair, in your cross-examination. You know you saw Cannon leave the chair, and you didn't see him any more. You state in your direct examination that

you saw him when you went out of the starboard door. Do you mean to say you didn't see him when he went out of the starboard door?

A. I say he did go out there; according to my belief, he went out of the starboard door. I am under that impression—convinced that he went out of the starboard door.

Q. You did not lose your presence of mind that night?

239 A. No, sir; I did not.

Q. You were cool and collected?

A. Yes, sir; I was so cool and collected about it that I went to bed after the boat got to the bottom—I think I was about the only one that did—and had a good sleep.

Q. You are a seafaring man of experience in these matters, and you have a very——

A. I have been at sea twenty years.

Q. You have a very correct idea of such things after they occur?

A. Yes, sir.

Q. Your idea of this collision is not at all confused?

A. No, sir; I have been at sea for seventeen years steady, before I went to planting in 1866. I belonged to the Ship-Masters' Association of New York.

Q. I understood you were an experienced man?

A. Yes, sir; sailed out to this port many times.

(Signed) A. N. GOULD.

JAMES OSCAR NIXON, Jr., being sworn, deposes and says:

"I took down the testimony of A. N. Gould in stenographic notes, on the eighth day of April, 1873, at the office of R. H. Marr, No. 35 Carondelet street, New Orleans, aforesaid, and that said stenographic notes contain strictly and truly all the testimony of said A. N. Gould, and the foregoing sixty-two pages contain the true and complete

240 transcript and copy from said notes of said testimony, taken at the time and place hereinbefore stated."

J. O. NIXON, JR.

Sworn to and subscribed before me, at the city of New Orleans, this 10th day of April, 1873.

[SEAL.] ALFRED INGRAHAM,
Commissioner for the United States.

Testimony taken in New Orleans March 12th, 1873. Present, Robt. H. Marr, esq., proctor for libellant; Given Campbell, esq., proctor for claimant.

GEORGE WELDON, sworn for libellant, says:

Q. Where do you reside?

A. I reside now in Philadelphia, but for many years in Natchez.

Q. How long did you live in Natchez?

A. I lived there since 1830 to 1855; then, there very frequently; almost, say once a month, for years.

Q. Were you on board the R. E. Lee at the time of the collision with the Potomac?

A. Yes, sir.

Q. Where did you get on board?

A. At Natchez; then bound for Grand Gulf.

Q. You were a passenger?

A. Yes, sir.

Q. At what time did the boat leave Natchez, about?

241 A. As near as I can recollect, about—I think it was about half-past eleven o'clock, from my now memory of it.

Q. Were you out when the boat got away from the wharf at Natchez—where were you?

A. When the boat left I was around the decks or in the cabin; about as usual. I have no recollection immediately, if you speak of when we left.

Q. Did anything attract your attention after the boat got out from Natchez?

A. Yes, sir; I was sitting at the stove. I recollect distinctly I heard a whistle, and I wondered if we were going to land. I know all around every place it could possibly land. It struck me, are we going to land at Brown's mill?

Q. You heard a whistle; was it the whistle of the Lee?

A. Yes; the whistle of the Lee.

Q. Can you recollect how ma'y blasts were blown?

A. I do not. I don't understand the language of whistles. I believe they have a peculiar language; but I know the whistle blowed.

Q. Was that a loud whistle or not?

A. A loud whistle, such as they blow where a boat is to land, or when boats are meeting, etc. I am a great deal on the river; I know all the whistles, although I don't know the language of them.

Q. You say you thought the boat was going to land at Brown's saw-mill?

A. Yes; I thought so. I was sitting in the cabin with my feet against the stove; it was a very cold night.

242 Q. Did you get out of the cabin after you heard that whistle?

A. I did; I then heard the bells ring.

Q. What bells do you mean?

A. I mean the engine-bells.

Q. You heard the engine-bells ring?

A. Yes; I don't know what for; but I heard them ring, still believing we were going to land; from that, the next thing was the shock of the Potomac, I found afterwards, but didn't know then, because I was really, when they struck, in the cabin. I went out and saw where we were.

Q. Were you and are you now well acquainted with the localities there?

A. I am. I built a breakwater there. I am an engineer by profession, and builder. I know that chain of marl soil on the Natchez side and the bar opposite.

Q. When you got out, are you able to say where the Lee was; what her position was?

A. The Lee was in the river, I would say, where they usually pass—I have seen hundreds of boats pass—and a little towards the Natchez or Mississippi side. I think about—divide the river into three, she had two-thirds on the Louisiana side—very near the middle of the river, though she was nearest the Natchez shore, I think.

Q. How was she headed?

A. Headed up stream, as usually boats generally are.

Q. Did you observe how the other boat was headed at the moment you went out?

A. I did.

243 Q. What was her position?

A. Her position was about an angle of 45; the keels of the two boats were very near an angle of 45 degrees.

Q. Where did that put the Potomac?

A. That put the Potomac—set her across the river—going cross-ways.

Q. Towards which shore?

A. Going towards the Mississippi shore.

Q. Towards which shore was the head of the Potomac pointing?

A. Towards the Mississippi shore.

Q. She was then between the Lee and the Louisiana shore?

A. Yes, sir; she was between the Lee and the Louisiana shore, heading towards the Mississippi shore.

Q. Did you pay particular attention to the way that the boats were headed at the point when you went out?

A. I did; that is to say, ordinary attention; not as a pilot; but I paid that attention that I knew how they were.

Q. Did you see any object on either shore that you recognized?

A. Yes; I did.

Q. What did you see?

A. Well, I saw the saw-mill there and the wharf-boat behind me, and what we commonly call the light-house, a place which is known as that there; every place; I knew every foot of land almost I might see.

Q. All these were familiar localities to you?

244 A. Familiar localities for thirty odd years.

Q. Which way did Brown's saw-mill appear from the Lee, from the position of the Lee?

A. To the right; we were a little ahead of the saw-mill when we went out.

Q. A little ahead of the saw-mill?

A. Yes; a little up the river.

Q. Do you know where Brown's house is?

A. Very well.

Q. How far is Brown's house above the saw-mill?

A. Well, probably about three or four hundred yards, I should think.

Q. Relative to Brown's house and the saw-mill, where was the Lee, above Brown's house or below Brown's house?

A. She was above the saw-mill, but not as far up as Brown's house.

Q. Above the saw-mill, but not as far up as Brown's house?

A. That is my recollection of it.

Q. Have you ever taken the exact distance, or do you know the distance from the wharf-boat to Brown's saw-mill?

A. I never took it, but I have travelled it thousands of times.

Q. About what is the distance?

A. From the wharf-boat to Brown's?

A. Yes, sir.

A. Well, probably I would call it about an eighth of a mile; I think it is that; it is something that never struck me, the exact distance; I never reflected much on it; it may be more; well, yes, sir, more than that; it must be, when I come to reflect.

245 Q. To your best recollection, about how far is it?

A. Well, I would say from the wharf-boat up to Brown's, upon reflection, is three-eighths or half a mile; I never gave it thought, much.

Q. Leaving the wharf-boat at Natchez, how does a boat have to hold there?

A. How, sir?

Q. Leaving the wharf-boat at Natchez, going up the river, how does a boat have to hold; how does she hold her course? What course does she hold?

A. Boats generally there take about the middle of the river; generally, though nearest—in low water when they are rather particular—nearest the Natchez shore; nearest the Mississippi side.

Q. Do you know anything about any lumps out there?

A. I do.

Q. Where do those lumps begin, and how far do they extend?

A. I know them; I built a breakwater there, and know the lumps; they seem to leave the bluff; they seem to come out of the high lands, coming in about Brown's mill, or opposite; but where they end, I don't know; but they come down, well, several hundred yards, visible in low water; I have worked on them.

Q. How far out are they from the shore?

A. From the shore? Well, they vary to some extent; but generally, I would call it a hundred yards from the actual banks; there's no particular. Some places they come nearer. I saw one boat wrecked on them once.

246 Q. A boat going up the river is obliged to stand far enough out to be sure to get out of the way of these mud lumps?

A. Yes; but I can't say how a boat is obliged to go; I am not a pilot, you know. I merely know how boats generally leave; I have sat on the bluff and saw hundreds of them.

Q. You said something about a light-house; is there a light-house on shore?

A. No, sir; it is known as the light-house. We had once an idea of having a light-house; it is called the light-house still.

Q. (By proctor for claimants, Mr. Campbell.) There is no light-house there?

A. No, sir; it is like a colt; it has growed up to that; it is called a colt when it is twenty.

Q. Where is that light-house—the locality that you have designated as the light-house?

A. It would be what we know there as the public grounds; the end of them.

Q. (By proctor for claimants, Mr. Campbell.) Brown's garden?

A. No, sir; south of that.

Q. When you say south, do you mean between Brown's and the wharf-boat?

A. Yes, I do.

Q. Is there anything there to indicate the locality, so that you could see it that night?

A. Not more than I knew from looking. I knew every place there; probably not another man on the boat would have designated it; it is only known to old citizens as the old light-house.

Q. Is Brown's saw-mill a prominent object from the river?

247 A. Very prominent.

Q. Are there a number of buildings there?

A. No, sir; there's buildings, but not a large number; such as would be necessary to carry on his business, and keep his people there—it is small; the mill stands out in bold relief—whitewashed.

Q. It is whitewashed, is it?

A. Yes, sir.

Q. Is your recollection distinct of having seen that saw-mill when you went out?

A. Not more than any other object.

Q. Did you, when you heard the engine-bells of the Lee ring, after hearing the whistle—do you know whether the engines were stopped or not? Do you know anything about that—did you notice that?

A. Whether the engines were stopped?

Q. Yes, sir.

A. No, sir; I can't tell you what they done. I tell you, I didn't pay that attention, believing, as in ordinary cases, we were going to land. For I don't know the language of bells, or whistles either.

Q. You haven't paid attention to that?

A. No; but I do know a whistle and a bell.

Q. What became of the Lee after the collision?

A. What became of her?

Q. Yes.

A. Well, she landed on the bar after the collision.

Q. Do you know whether she went up the river or down the river to get to the place at which she rested on the bar?

A. I think she went very near straight across. I heard Capt. Cannon——

Q. (By proctor for claimants, Mr. Campbell.) Never mind what you heard from Cannon.

248 A. You ask me what I seen? We landed on the bar.

Q. Who ordered the boat to be put on the bar?

A. Captain Cannon.

Q. Did you hear his orders?

A. I did.

Q. To whom were his orders addressed?

A. He addressed his orders above—I don't know to whom—as he generally would, to the pilot.

Q. Where was Cannon?

A. Cannon was on the lower deck.

Q. He told the pilot to put her on the bar?

A. To put her on the bar. I think he first said the Natchez side, but afterwards he said on the bar—put her on the bar.

Q. Did you remain on board the Lee?

A. I did.

Q. Do you know where she rested on the bar?

A. I know very well; but I don't know how to describe it to you here.

Q. I will indicate to you the means by which you will describe it. Relatively to Brown's saw-mill, stretching a straight line from the Louisiana shore across the Lee, as she lay on the bar, how would that line have touched the shore on the Natchez side? Say you would stretch a line from a point on the Louisiana shore, across the Lee to the Mississippi shore, how would that line have fallen—the Mississippi extremity have borne, with reference to Brown's saw-mill? Would it have been above or below Brown's saw mill?

A. I don't think I understand it enough?

249 Q. Here is the Lee laying on the bar; here is the Louisiana shore—stretching a line across the Lee to touch the Natchez shore, as near a straight line as you can, how would that end which touched the Mississippi shore bear with reference to Brown's saw-mill?

A. It is according to where you start your line on the Louisiana shore.

Q. I mean as high up the river as the boat was.

A. Give me any line or angle from the centre of the river—it would be a little above it, I think.

Q. A little above Brown's saw-mill?

A. I think so. I knew at the time, but it may have escaped my memory.

Q. After daylight you saw objects on the Natchez shore very distinctly, didn't you?

A. Yes; I staid there until dinner-time the next day, nearly dinner-time, we were taken off.

Q. How far from the court-house at Vidalia was it up to a point on the Louisiana shore which would be directly opposite to the point at which the Lee lay?

A. How far from the Vidalia court-house to the Lee where it grounded?

Q. Yes.

A. Well, I couldn't tell you that.

Q. It was in sight, was it?

A. Yes, in sight; I would say the whole transaction was a mile or a mile and a half from Natchez where she lay, from my memory now, but I didn't impress it strong enough to be positive.

Cross-examination:

Q. Where did you reside when the accident occurred?

250 A. I resided at Port Gibson, Mississippi.

Q. How long had you been residing there?

A. Several years; from '65–'66, by the bye—

Q. Have you travelled much on the river lately?

A. I have travelled a great deal on the river in forty years.

Q. But lately?

A. No, sir; not a great deal.

Q. How many times have you ever travelled on the Lee?

A. I have travelled frequently on the Lee and on the Natchez.

Q. When did you arrive in the city?

A. I arrived in the city two or three days ago—came down on the Lee.

Q. Came down here to give your testimony?

A. No, sir; not particularly.

Q. Did you pay your passage on the Lee?

A. I intend to pay my passage on the Lee.

Q. You havn't done it?

A. No, sir.

Q. You arrived three or four days ago?

A. Yes, sir.

Q. Is that usually the way the Lee and the Natchez do—to bring passengers and to wait on them for their fare?

A. Yes, sir; they have paid thousands of dollars for me without my being here at all.

Q. I am not talking about paying for you. Is that the usual way of doing business on passenger steamboats—to wait three or four days to pay their fare?

251 A. I don't know whether it is or is not. I should think not, though. I can tell you my business down here.

Q. I don't care about knowing your business.

A. I asked for a berth like any other passenger coming on board; I think I am booked there. You asked me if I paid my passage; I did not.

Q. Did anybody ask you to come down on her that trip?

A. No, sir; nobody asked me to come down that trip. I have been asked before to come down and didn't.

Q. You say you were sitting at the stove?

A. Yes, sir.

Q. In the hall—in front?

A. Yes, sir.

Q. Who else was sitting there?

A. I think Reeve Lewis was there, if my memory serves me. The others, though, I don't recollect, but I do recollect talking to Reeve Lewis, who was sitting there at the time.

Q. Who else was there?

A. I don't recollect.

Q. You have no recollection?

A. I do; there were several.

Q. Was Captain Gould there?

A. He might have been there. I didn't see him.

Q. You didn't see him?

A. I do not now recollect of having seen him; I did not impress it upon my memory; I didn't think I would have to testify about it.

Q. Was Watson there?

A. Watson was on board. I know him very well.

252 Q. Was he at the stove?

A. What time do you mean?

Q. While you were sitting there, before the collision?

A. I couldn't say. Lewis I had been talking to was the reason I recollect him. It was a very cold night.

Q. What were you talking about at the time you were sitting at the stove?

A. God knows. Louisiana affairs, Mississippi affairs, politics, law, gospel—I don't recollect.

Q. You don't recollect anything about it?

A. No, sir.

Q. You don't recollect who was talking or what the discussion was about?

A. No; I do not, no particular discussion; we were talking on general subjects; probably the newspaper matter of the day.

Q. Was Cannon engaged in that conversation?

A. No, sir; not particularly engaged; sometimes one thing, sometimes another; I saw nothing extraordinary to note in his conversation or anything of that kind?

Q. How long had you been sitting in the hall previous to the collision?

A. I came on board at Natchez.

Q. Sitting in the hall all the time?

A. Sitting in the hall all the time; hadn't went to bed.

Q. Did you see Pierce that night? Do you know him? The pilot of the Lee.

A. Which?

Q. Pierce, do you know him? The pilot of the Lee.

253 A. I know Pierce.

Q. Sir?

A. Yes; I know Pierce.

Q. Did you see him that night?

A. I think I did; I don't recollect distinctly.

Q. You don't recollect whether you saw him or not?

A. No; I do not; I may have seen him, and may not. I don't now recollect.

Q. Whereabouts is the bar-room on the Lee?

A. The bar-room?

Q. Yes.

A. I can hardly describe that; it is on the end of the boat; I don't understand your starboard and larboard.

Q. Is it near the hall stove?

A. It is very near the hall stove.

Q. You don't recollect seeing Pierce that night?

A. I do not; I may have seen him. You must recollect I came on board at Natchez; I didn't come from the city up.

Q. How long were you on board at Natchez?

A. Well, I think I was on board there nearly an hour; may be quite an hour.

Q. When did you hear that whistle that you spoke of?

A. When?

Q. Yes.

A. When is relative to what time. Do you mean to ask me the time of night?

Q. I mean in relation to the collision; when did you hear the whistle; how long before the collision?

254 A. I would say now a minute, or along that away; a minute and a half or three-quarters of a minute; I can't tell you the time exactly.

Q. How long after that before you heard the bell?

A. Shortly after that; I don't recollect that time exactly.

Q. How long afterwards?

A. Well, I don't know; it was a very short period of time, though.

Q. A very short period of time?

A. Yes; probably a quarter of a minute, or half a minute.

Q. You heard the bells just at the time of the collision?

A. No; I heard them before the collision.

Q. How long?

A. It was a fraction of a minute; I couldn't tell you exactly, or begin to.

Q. How many bells did you hear?

A. I couldn't tell you that; I heard a bell; I don't know the language of bells.

Q. You only heard one bell?

A. I didn't say I didn't hear more; I didn't say any such thing; I heard a bell or bells.

Q. All at the same time, or different times?

A. No; not all exactly at the same time; I heard a bell, I know; there may have been two; probably that will express it better.

Q. Well, did you hear two at the same time?

A. No, sir; one after the other; there may have been that, and may not; I heard a bell and whistle; I couldn't tell you whether it

255 was twice whistled or once whistled; but I heard a whistle and I heard a bell.

Q. Do you know where that bell was?

A. I knew as far as my sense of hearing would tell me.

Q. Where was that bell?

A. That bell would have been the engine-bell, as we understand it, to stop her, or back her, or something; I couldn't tell you whether it

was to stop, to back, or to go ahead; but it was the engine-bell, as it is understood on a boat; it couldn't be to go ahead, for we were running.

Q. You are certain that the bell was—you heard that bell rung before the collision?

A. Yes, sir; which?

Q. You are certain that you heard that before the boat struck?

A. Yes, I am; because, when the boat struck, I went out of my seat mighty quick—the concussion——

Q. Where did you go when the boat struck?

A. I went down. I saw a couple of logs on deck, and I thought they were good swimming material; they looked like they were gearing beams. I went on the lower deck.

Q. You saw Cannon when you got down there?

A. I did.

Q. How long after the collision before you run out and went down stairs?

A. Very soon.

Q. About how long? "Very soon," is a very indefinite expression. How many seconds or minutes; or did you go immediately?

256 A. It was inside of a quarter of a minute; the Potomac was not out of the Lee—the side of the Potomac, as far as she run in. She hadn't got clear of the Lee when I got down there.

Q. She hadn't got out of the Lee when you got down there?

A. No, sir.

Q. At that time the Potomac was quartering across the river, you say?

A. She was about an angle of 45, I think; the keel of the Potomac and the keel of the Lee would be about that angle.

Q. Which way was the Potomac heading, down-stream or up-stream?

A. She would have been diagonally across the Mississippi.

Q. Diagonally, which way?

A. Well, running towards the Mississippi shore.

Q. With her bow up or bow down?

A. Bow quartering down.

Q. Bow quartering down-stream?

A. Yes, sir.

Q. An angle of about forty-five degrees?

A. I think that.

Q. What was the first thing you saw after you run down stairs—how long after that before Cannon gave this order to the pilot? I mean after you speak of, how long after you came down there before Cannon gave that order to the pilot that you spoke of, instructing him to go to the shore?

A. Well, I don't know; they tried to get clear of each other first, of course; I don't know what portion of time it took; but, as soon
257 as he was clear of the boat, then the order was given, as soon as the Potomac got out. The Potomac said something like "Don't leave us!" "Help!" I forget now, but it was some request for help—some language—that is the impression—for help. And he seemed to scan the danger, the amount of damage that was done, and tried to get tarpaulins over——

Q. I hadn't asked you that. I just asked you the simple question, how long after you went down there before you heard Cannon give that order to the pilot to run her ashore—whether it was a minute or an hour?

A. It was no hour. I don't know about a minute. It was not a min-

A. No; I do not; I may have seen him, and may not. I don't now recollect.

Q. Whereabouts is the bar-room on the Lee?

A. The bar-room?

Q. Yes.

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Q. I hadn't asked you that. I just asked you the simple question, how long after you went down there before you heard Cannon give that order to the pilot to run her ashore—whether it was a minute or an hour?

A. It was no hour. I don't know about a minute. It was not a min-

ute, I would say. As soon as he got clear of the Potomac, he leaned over and scanned the danger, whatever it was, and told him to go to the bar; and they done so.

Q. Which way did the Lee go after she got clear of the Potomac? How did she get clear of the Potomac—by backing out or going ahead?

A. I can't tell you that; by backing out; I think so.

Q. You think she got clear by backing out?

A. I do. I didn't pay attention to those things.

Q. Did you see Campbell in the hall of the boat—Capt. Campbell?

A. I saw Capt. Campbell.

Q. Where was he?

A. Well, I saw him many places. I couldn't tell you any particular place. I tried to see what damage was done to the boat.

Q. I mean before the collision?

A. I seen him before the collision.

258 Q. Where was he immediately before the collision?

A. I don't know, when you say immediately.

Q. Did you see him in the hall there, sitting around the stove?

A. He may have been sitting around the stove. I saw him walking backwards and forwards, as usual, in the boat. I can't light on any particular time; but I recollect well, I seen Campbell.

Q. You don't know where he was at the time of the collision?

A. I do not.

Q. Do you know where he was when the engine-bells rung?

A. I do not.

Q. Do you know where he was when the whistle blew?

A. I do not.

Q. Do you know where Cannon was when the whistle blew?

A. No, sir; I can't say I know where Cannon was; although I seen him on many occasions. But when you identify them two, I don't know at that instant of time where Cannon was.

Q. Were you frightened when this collision occurred?

A. Well, I must admit I was a little frightened. Not scared out of my wits, though. I saw the two logs on deck, and I made for them, believing them good to swim with. I came to the conclusion that it mattered not much whether it was fire or water; either would kill me—it was so cold.

Q. You didn't stop to examine, until you found those logs?

259 A. I went for them logs mighty fast.

Q. You didn't stop to examine until after you found the logs all right?

A. It was all in view—I was going towards where the Potomoc struck the Lee—my face was towards the Potomac.

Q. You just took it in in one comprehensive glance?

A. Yes; I don't know how comprehensive; according to my idea——

Q. While you were crossing the boiler-deck of the Lee, and going down stairs, you were then watching the shape of the Potomac, the exact position of the shore on both sides, the direction the Lee was heading, and looking after the logs at the same time?

A. I was looking after the logs.

Q. And pretty badly scared all the time?

A. No, sir; not very badly. My nerves isn't so very tender. I am pretty well acquainted with the river; but I would rather have had them than any life-preserver.

Q. What sort of a night was it?

A. It was pretty dark.

Q. Could you see the Louisiana shore?

A. I could see the Louisiana shore; that is, I could see the lines of the shore very distinctly—not very distinctly.

Q. Could you see the shape of the river?

A. Yes, I could see the shape of the river; a very small glance would show me there the shape of the river; I am very well acquainted; I had been for, off and on, thirty years an inhabitant of Nachez; knew it well, just there; I knew all the places; I am a good pilot.

Q. Suppose the Potomac had been going down the river?

A. She was going down the river.

Q. Shaping the bend, and had struck the Lee on the larboard quarter, running her stem into the Lee, what effect would that have on the course of the Potomac—would it not naturally swing her stern down stream?

A. I don't know that I understand you. Looking up the river, the Potomac struck her on the left. I don't understand starboard or larboard, or anything about it. I understand right and left. Looking up the river, she hit her about an angle of forty-five degrees. That was the position I saw her in. What position she had got to come in contact with her I know not, for I was not out.

Redirect examination:

Q. You said something about your building a breakwater there. Where did you build that breakwater?

A. On what is called Brown's flat, for Andrew Brown, and, I think, the city of Natchez. I say, I think. I think they settled with him for it.

Q. How long were you engaged in building that breakwater?

A. Well, I was engaged for probably three or four months, in the year 1837. It think it made part of 1838.

Q. Was this breakwater built above or below the saw-mill?

A. Built above the saw-mill.

Q. How far above the saw-mill?

A. Well, it is several hundred yards—three or four.

Q. During that time you became perfectly acquainted with that locality?

A. Yes, I am acquainted with that locality.

Q. Can you say whether this collision occurred above or below that breakwater?

A. I think it was a little above it.

Q. You spoke of coming to New Orleans on the Lee. Had you special business in New Orleans?

A. Yes, sir; I had to sue Concordia Parish for about forty thousand dollars, for Moss & Simmes. Came here with General Martin.

Q. Your business was to institute a suit against the parish of Concordia?

A. For thirty-nine thousand nine hundred dollars; done it yesterday.

(Signed) GEORGE WELDON.

JAMES OSCAR NIXON, Jr., being sworn, deposes and says:

"I took down the testimony of George Weldon in stenographic notes, on the 12th day of March, 1873, at the office of Given Campbell, esq., No. 61 Camp street, in the city of New Orleans aforesaid, and that said

stenographic notes contain strictly and literally all the testimony of said George Weldon, and the foregoing sixty-three pages contain
262 the true and complete transcript and copy from said notes of said testimony taken at the time and place hereinbefore stated."

J. O. NIXON, JR.

Sworn to and subscribed before me, at the city of New Orleans, this 31st day of March, 1873.

ALFRED INGRAHAM, [SEAL.]
Com'r of the United States.

Surveyor's office, State of Louisiana, city of New Orleans.

The undersigned inspector for underwriters of New Orleans, and general marine and river surveyor, for the inspection of vessels, steamers, and cargoes.

R. E. LEE, JAN. 4, 1871.

The steamer R. E. Lee having collided with the steamer Potomac, opposite Natchez, and sunk on the bar when she was run ashore in 9 feet water. Built mud-bulkhead, employed assistance, and succeeded with tarpaulins over her bows in pumping her out and getting her back to this port, still leaking badly; all the particulars of which are fully set forth in the protest.

There being no dry-dock here sufficiently wide to take her in without cutting off her guards, which would cause a great outlay and detention, it was concluded to build a bow-dock large enough to take her in at the break, put it under her, and pump it out so as to repair the damage; first, for greater safety, building a cross-bulkhead in the
263 boat considerably abaft of the mud-bulkhead, which should be entirely water tight, so as to keep her from sinking, in case anything should occur to the bow-dock before the boat was finished.

JAN. 2D.—By request of Capt. Cannon, this day held survey to ascertain extent, the extent of the damage, and state what repairs were necessary after the dock was put under and pumped out, and the mud was all taken out and the bows washed out.

After examination, report as follows: The starboard bow was entirely driven off from the stem, carrying with it the rabbit on that side almost down to the keel, so that the side opposite the break when the stem of the Potomac struck her, there was an opening of 5 inches the whole depth of the boat; 15 of her top timbers on the port side were broken, and must be taken out and entire new ones put in; ten of the top timbers on the opposite side are broken also, or split, but they may be repaired by filling in between the present timbers from below to the middle clamps, for which purpose part of the clamps on that side must be wedged off to get in the timbers. All 4 of her breast-hooks are broken, and must be taken out as far as the break goes, on both sides; part of them to be scarpled instead of taking them out the whole length. The stem and apron were in one piece. The rabbits were split off, and the inner apron broken at the heel and head, and the head of the stem split, so that instead of taking out the same altogether, to have the broken apron or dead-wood removed, the after-part of the stem dressed off, a
piece scarfed on to the head about 7 feet long, and a new and
264 heavy apron put in and the hood ends refitted on to the apron instead of the stem. To have the fore-end of the rider-keelson, which is split, taken out for about 10 feet, new piece scarfed on, and

the heel of the apron secured with a heavy hackmetack knee fitted in and bolted through stem and apron and down into the keelson. Five clamps on port side broken off, to be new, 35 feet long. Twenty-six outside planks to be taken out and new put in, average about 40 feet long, 4x12 inches. Some of the plank on the starboard side to be taken off to get at the keels of the cants, and to get the bow back to its place, and bolt the new cants. Stem band to be taken off, to bolt the stem and apron together; 6 forecastle deck beams, and 12 outriggers broken, all to be put in new after the old ones are taken out. The forecastle deck all the way across has been cut and taken up to build mud-bulkheads, and must be all put in new, say to break-butts, about 41 feet long average. Steam capstan and engines have to be taken out, and must all be refitted. The forward bitts, which had been knocked out of place and split, to be put in new, 14x14 inches, and four of the forecastle hog-chains, which have been knocked down, to be refitted. The jack-staff and its support, at the head of the apron, knocked down, to be refitted, and all the new work and the old as far as can be got at in the bow-dock, recaulked, and painted as before. The whole for'castle guards, warping chocks, and side chocks have been lifted up out of place, and has to be set down to its place again, refastened and secured again as before. Twelve streeks of main deck, abaft the dockters,
265 have been cut to put in large box-pumps, and must be repaired and replaced with new, about 15 feet long, 6x3 inches. Some planks have also been cut on the guards, to get bilge-docks under her, say six planks on each side, average about 15 feet long, to break-butts.

TUESDAY, *January 10th.*—This day held a further and final survey of the R. E. Lee, and find that the work below her deck is all finished, and that on deck has so far progressed that she may get up steam and go over to the landing, preparatory to taking in her cargo, and on Wednesday proceed on her trips, as usual

We also further certify that the work ordered to the Lee has been such as was absolutely necessary to put her in a safe condition for the prosecution of her business, and that nothing more has been done than was necessary to put her in good and river-worthy condition, as she had been before the collision, and that she is now sound, tight, staunch, and strong, and in good order for the safe transportation of dry cargo, in her usual trade.

N. B.—We have been furnished on board the Lee with the following list of articles used during the building bulkheads and raising the boat, etc., viz: The forward cabin under the forecastle, used by the firemen and deck hands, and having bunks, etc., for the accommodation of about 70 men, was entirely knocked down and taken out to get into her bows to build mud bulkhead, and must be replaced with new, about 5,000 feet of lumber, mostly cypress, 100 lbs. spikes,
266 180 lbs. cotton, 300 gunnybags, and 3 tarpaulins, all used in raising the boat, and must be charged to general average account.

Given under our hands, at the city of New Orleans, this 18th day of January, 1871.

Lee appraised at $70,000 for general average contribution.

(Signed) R. L. ROBERTSON,
L. W. COOPER,
Surveyors.

I hereby certify that the foregoing is a correct copy of the original on file in my office. New Orleans, July 10th, 1873.

[SEAL.] RICH'D L. ROBERTSON.

Surveyor's office, State of Louisiana, city of New Orleans.

The undersigned inspector for underwriters of New Orleans, and general marine and river surveyor, for the inspection of vessels, steamers and cargoes.

STEAMBOAT POTOMAC.

The steamer Potomac having collided with the steamer R. E. Lee, by which both boats were seriously damaged, and the latter boat sunk, the Potomac arrived at this port leeking badly. Held survey and advised that she be placed in one of the dry-docks for further examination and necessary repairs. On the day above written we found the boat on the Southern dry-dock; made examination and report as follows:

267 Stem-band broken, stem shattered and broken down below the water-line. Upper part of the apron, which supports the jackstaff, broken off and the jackstaff also broken, and iron work more or less broken or bent. Starboard warping-chock broken and knocked off, and the larboard one split so that it must be taken off. All the above work to be replaced with new. The stem scarfed below the break so as to leave the lower part in. Stem-band to be taken all off and sent ashore to the blacksmith's to be repaired. Starboard forward stack-knee knocked downward, one of the knees broken, to be repaired and refitted. The starboard bow-chock, nozing and plankshear, above and below, broken for about twenty feet aft, and the nozings around the bows on both sides to be taken off and new put on. Guard deck, ten streaks, average twelve feet, and ten streaks of main deck, average twenty feet long, to be new, having been stove in and broken. Some of her wood ends were broken by the collision; short pieces to be taken out and new put in. The capstan is also damaged and must be overhauled. One of her log-chains is also broken; to be repaired. Three planks of the deck abreast the fire end of the boiler on the starboard side, cut to put in a small box-pump. While she was leaking, used some lumber and cotton in building bulkhead. Tried her butts and seams, and found them all very slack and much in need of recalking all over, fore and aft. We also learn from the protest that she landed some of her cargo on the wharf-boat at Natchez, to lighten the boat and build
268 bulkhead, and from the damaged condition of the boot, thought it best to leave it there and ordered it shipped to this port by some other boat. Finding one of her knuckle planks cut by rocks or other hard substances on the larboard side, and evident signs of her having run very heavily over something under water, had her dunnage taken up in the hold on both sides forward, and found 17 of her floor timbers on the port and 3 on the starboard side badly broken; ordered the floor timbers to be doubled with 7 half-floors and thirteen naval timbers after the clamps were taken up; and when the timbers were in and well spiked to the bottom plank and old floors, the clamps to be put down again and finished as before, and the bruised plank outside in the port knuckle to be taken out and a new one put in, and the irons, 2 of which had been taken off, put back again. The plank put on was 18 feet long, 12 inches wide, and 4 thick. The captain and officers think she received the latter damage in crossing the falls at Louisville.

JANUARY 5TH, 1871.—The work ordered in the foregoing surveys to be done to the Potomac, and the boat recalked all over outside, she is

now ready to be taken out of the dock, and proceed on her intended trip, being well repaired, tight, and in river-worthy condition.

(Signed) R. L. ROBERTSON.
L. W. COOPER.

We hereby certify that we have this day assessed and appraised the value of the steamer Potomac in her damaged condition after
269 the collision with the R. E. Lee, for general average contribution at the sum of fifty-eight thousand dollars.

Given under our hands, at the city of New Orleans, this January 5th, 1871.

R. L. ROBERTSON, [SEAL.]
L. W. COOPER,
Surveyors.

I hereby certify that the foregoing is a true copy from the original on file in my office.

RICH'D L. ROBERTSON.

NEW ORLEANS, 10*th February*, 1873.

Claimant's testimony.

District court of the United States of America for the district of Louisiana, holding sessions in the city of New Orleans.

To any U. S. commissioner at Cincinnati, Ohio:

Know ye, that reposing special trust and confidence in your integrity and ability, we hereby authorize and require you that you call and cause to come before you Eugene Y. Handlan, Jno. N. Shunk, George Maloney, A. Martin, Wm. Graham, Samuel Wilson, Perry Holland, Mahlon Rusk, Presley Squires, W. Lynch, C. D. Robertson, W. J. Anshultz, Jno. Davis and others, and them duly examine on the annexed interrogatories and cross-interrogatories on oath touching and concerning certain matters and things in a case now pending in the said court, wherein John W. Cannon is libellant, and the owners of the steamboat Po-
270 tomac are defendants; and the same examinations, so taken and reduced to writing, you certify under your hand and seal, and send enclosed to this court without delay, to be read in evidence on the trial of said cause, and send also this writ.

Witness the honorable Edward H. Durell, judge of the district court of the United States of America for the district of Louisiana, at the city of New Orleans, this 20th day of June, A. D. 1872.

[SEAL.] J. A. CHARBONNET,
Deputy Clerk.

United States district court, district of Louisiana. In admiralty.

JOHN W. CANNON
vs.
STEAMBOAT POTOMAC AND JNO. N. SHUNK, master. } No. 9760.

Interrogatories to be propounded to Eugene Y. Handlan, John N. Shunk, George Maloney, Perry Holland, Mahlon Rusk, Presley Squires, W. Lynch, C. D. Robertson, W. J. Anshultz, John Davis, A. Martin, William Graham, Samuel Wilson, and others, resident of the States of Ohio and Kentucky, mostly river-men, witnesses for the claimants in this suit, and for John N. Shunk, master of the steamboat Potomac, whose answers are to be read in evidence at the trial of aforesaid cause on behalf of defendants and claimants.

To each and every witness:

Interrogatory first. What is your name, age, occupation, and where

do you reside? If you say you are or have been running on the
271 river, please state in what capacity you have been employed on the river, and how long you have been so employed, and in what trade or trades.

Interrogatory second. State whether or not you were acquainted with the steamboat Potomac in the month of December, 1870; if you say you were, and if you can do so, also state in what trade she was then engaged; between what ports and places; and, if you know, state who were the officers of said steamboat during the month of December, 1870.

Interrogatory third. Do you know how the Potomac was officered, manned, and equipped for the trade she was engaged in on the 21st of December, 1870? If you do know, state whether she was fully officered, manned and equipped, and provided for the voyage she was then on; and if you know, state what was the character and standing of her master, pilots, engineers, and mates at that time; also state the age of said vessel, her tonnage, and whether or not she was staunch and riverworthy; also, if you know, state the kind and quality of her machinery.

Interrogatory fourth. Do you know anything about how the Potomac handled at the time above referred to? If you do, state how she handled and steered?

Interrogatory fifth. Do you know anything about the collision between the steamboat R. E. Lee and the steamboat Potomac,
272 which occurred above and near Natchez, Mississippi, on the Mississippi River, on the night of the 21st of December, 1870, about the hour of twelve o'clock? If you do, state whether you were on either of said boats. If so, upon which; and state whether you were employed upon said boat, or whether you were a passenger; and if employed, state how long you had been employed, and in what capacity. If you know, also state from what port, and when, the Potomac departed therefrom, upon this voyage, and to what place she was bound.

Interrogatory sixth. If you know, please state whether anything unusual happened on the voyage, from the port of departure up to the time of the collision; also state how the officers and crew of the Potomac behaved during that part of the voyage, and how she was navigated, and how she handled on the way.

Interrogatory seventh. Were you on board the Potomac at the time of the collision? If so, in what character or capacity? If you say you were on her then, state in what part of the boat you were a short time previous to the collision, and at the time of the collision, and what you were doing in that place, and who was with you. If you say you were on watch, state when you went on watch.

Interrogatory eighth. Do you know any of the facts and circumstances preceding the collision, and of the collision itself? If you say you do know, then tell all that you know in regard to same, fully and distinctly.

273 Interrogatory ninth. If you have answered and stated facts within your knowledge preceding or accompanying the collision aforesaid, please describe, if you know, the course pursued by the Potomac, on her way down the river, shortly before she came in sight of the Lee; also describe the shape of the river, above and below the points of collision, and at the point of collision, and the nature of the bank on each side of the river; also state whether or not the Potomac passed any, and what, boat shortly before the collision; and, if you say she did,

state what boat she passed, and how they passed each other, and where it was. And on which side the Potomac passed, and how far it was from this point to the point of collision; and what course the Potomac pursued after she passed this boat until she came in sight of the Lee; and how the Potomac was held in the river, on what course, and how far from shore, and which shore when she came in sight of the Lee.

Interrogatory tenth. Do you know how far the Potomac was from the Lee when her pilot discovered the Lee; and how far this was from the place of collision? If yea, state it.

Interrogatory eleven. Do you know whether the Potomac sounded any signals, after coming in sight of the Lee? If yea, state what signals she sounded; and, if you know, state why she sounded these
274 signals; also state how far the Potomac was from the Lee when she sounded said signals. Also state whether you heard any signal or signals from the Lee. If you did hear any from the Lee, then state how far apart said boats were when you heard the Lee signal, if you heard any.

Interrogatory twelfth. Do you know whether any engine-bells were rung upon the Potomac after she blew her signal? If yea, describe exactly what bells were rung, at what time they were rung *them*, and how far off the Lee was when said bells were rung.

Interrogatory thirteenth. Do you know whether the engines of the Potomac were stopped or not, or whether they were backed or not? If you say yea, then state who was handling the engines, and at what time they were stopped, and when they were backed; and how far apart the two boats were when the engines of the Potomac were stopped, and how far when the Potomac commenced backing.

Interrogatory fourteenth. If you know, state whether or not the Potomac was pursuing her proper course when she blew her signal for the Lee; and state particularly whether she made any change in her course prior to receiving the blow from the Lee. If she did, describe it. Also state how the Potomac was heading at the time the blow was struck; and also state how the Lee was headed when the boats collided.

Interrogatory fifteenth. If you know, state what shape the
275 boats were in when they came together, and what parts of the respective boats first came in contact, and how far the boats were from the east bank of the river at that time, and how far above Natchez it was.

Interrogatory sixteenth. How was the Potomac headed immediately after the blow, and how was the Lee headed at the same time?

Interrogatory seventeenth. Can you state whether or not the Potomac's headway was checked at the time of or immediately before the collision? Also state whether or not she had stemway at the moment of the collision.

Interrogatory eighteenth. State what the Potomac did after the collision. State whether she sounded any signal or not; and, if she did, state what they were, and whether they were replied to or not. State fully.

Interrogatory nineteenth. If you know, state what course the Lee pursued on leaving the wharf-boat at Natchez on that night; and what course she was pursuing when discovered by the pilot and those on board the Potomac. State whether she was running up either shore; and, if so, which shore, the eastern or western; and how far from the shore. Also state, if you know, what course she was pursuing when the Potomac first sounded her signal for the larboard, and how far apart the two boats were at that time.

Interrogatory twentieth. State whether the Lee made any re-
276 ply to the signal of the Potomac. If so, when; and how far was she from the Potomac at the time. Also state what course the Lee pursued after the Potomac sounded her whistle for the larboard. If she made any change in her course, describe it fully and exactly, and describe the way the Lee approached the Potomac up to the moment of collision, and state whether you can say if the Lee rang her backing bells; if so, when, and at what distance from the Potomac. Also state whether or not she was backing when she struck the Potomac.

Interrogatory twenty-first. Are you sufficiently acquainted with the pilot on watch on the Potomac, at the time of the collision, to say whether he was or not well acquainted with that part of the river, and whether or not he knew exactly where he was just before the collision, and at the time of the collision? If you are, then answer this question, and give your means of such knowledge.

Interrogatory twenty-second. State what kind of a night it was when the collision took place; also state how the Potomac handled that night.

Interrogatory twenty-third. State whether the Potomac could have avoided this collision by the exercise of any precaution; and whether or not she failed or neglected to take any precaution to avoid it, and whether the collision was in any manner attributable to any mis-
277 management, neglect, or want of care or skill on the part of the officers and crew of the Potomac, and also state whether or not the Potomac's signal lights were burning and in their proper places at the time of the collision.

Interrogatory twenty-fourth. By whose fault was this collision caused? If you say it was the fault of the Lee, then give your reasons for saying so fully, and state whether she could, by the exercise of care, skill, and prudence on the part of her officers and crew, have avoided the same, and how. Also state whether or not large boats are apt to sheer suddenly from a bar shore or shoal shore; also, if you know, state how high the Lee's guards were out of the water at the time, and how much of a load she had on her; and, if you know, state which is easiest and quickest handled and manœuvred, an ascending boat or a descending boat.

Interrogatory twenty-fifth. Did you ever hear any conversation of Captain Cannon or any other officer of the Lee, relating to this collision, in which they admitted this collision to have been caused in any way by a mistake on the part of the pilot of the Lee? If you have ever heard any such conversation or conversations importing this substantially, then please give the conversation, and state who was the speaker, and to whom it was addressed, and where it was spoken, and who was present.

Interrogatory twenty-sixth. State whether or not the Potomac was injured by this collision; if you say she was, then describe
278 accurately in what respects she was injured, and how badly she was damaged, and if any repairs were necessary or made upon her, required by this accident; then describe what repairs were made, and state their cost and when and where made, and set forth an account of same.

Interrogatory twenty-seventh. Do you know who were the owners of the Potomac at that time, and whether they sustained any other damages directly attributable to this collision? If you say they did, please state what such damages were, and how they were incurred. State whether said collision caused her any and what delay, and how

much she lost, if anything, from such delay necessarily incurred by her therefrom, and attach an account showing the amount of said damages and the items thereof, and identify same with your deposition.

Interrogatory twenty-eighth. State any other facts within your knowledge, which will be of advantage to the defendants, as fully as if specially interrogated thereto.

GIVEN CAMPBELL,
Proctor for Defendants.

John W. Cannon, libellant, reserving the benefit of all just and legal exceptions whatsoever to the foregoing interrogatories, and to the answers which the witnesses respectively may make to the same, nevertheless propounds to them the following cross-interrogatories:

279 First. Since the first day of January, 1872, on how many occasions have you been at the city of New Orleans? State the several times and dates at which you have been at New Orleans.

Second. On what boat or boats have you been employed since the first day of January, 1872? Who was the captain of such boat or boats?

Third. How far was the Potomac from the wharf-boat, at Natchez, when you first saw the lights of the Robert E. Lee? How far do you think the Lee was from Natchez—from the wharf-boat—at the time you saw her lights first? On which side of the river was the Potomac at that time? On which side of the river was the Lee at that time?

Fourth. How long after you first saw the lights of the Lee did you hear the whistle? How long after you first saw the lights of the Lee did you hear the whistle of the Potomac? What blasts? How many were blown by each boat?

Fifth. How far from the wharf-boat at Natchez was your boat when she first whistled, and how far was the Lee from that wharf-boat when she first whistled? On which side of the river was the Potomac at that time? On which side of the river was the Lee?

Sixth. Where were you at the time you first heard the whistle of the Potomac? What did you do? To what part of the boat did you go? How far apart were the two boats when you heard the Lee's whistle? How far apart were they when you first heard the Potomac's whistle?

280 Seventh. How long after you heard the whistle of your boat—the Potomac—was it before the two boats collided? What parts of the two boats came in contact?

Eighth. At the time your boat whistled, how was her head pointed? How was the head of the Lee pointed at that time? How was the head of your boat pointed at the moment of collision; toward which shore? How was the head of the Lee pointed at that time; toward which shore?

Ninth. State what engine-bells you heard on the Potomac from the time you heard her whistle up to the moment of collision. How long after you heard her whistle was it before you heard her engine-bells? Did you hear the engine-bells of the Lee? How long after you heard the Lee's whistle was it before you heard her engine-bells? How far were the boats apart when you first heard the engine-bells of the Potomac, after you heard her whistle? How far were they apart when you heard the Lee's engine-bells?

Tenth. Where were you at the time of the collision? On which side of the Potomac were you? Looking from the place at which you

were to the head of your boat, on which side were the lights of the wharf-boat at Natchez? Looking from the place at which you were to the jackstaff of your boat, which way were the lights at the wharf-boat at Natchez from that line of vision?

Eleventh. Where did the Lee sink? Was it above or was it below the place at which the boats collided? How far was it above or how far was it below the place at which they collided?

281 Twelfth. How far was the place of collision above or below Brown's saw-mill? How far was it above or below Brown's garden? How far was the place at which the Lee sunk above or below Brown's saw-mill? How far was it above or below Brown's garden?

Thirteenth. How far was the point of collision from the wharf-boat at Natchez? How far was the place at which the Lee sunk from the wharf-boat at Natchez?

Fourteenth. Did you testify before the local inspectors at New Orleans soon after this collision occurred? Was the testimony which you then gave true and correct? Have you seen a copy of the testimony which you and the other witnesses then gave? When did you last see a copy of that testimony? Who exhibited it to you? For what purpose was it exhibited to you?

Fifteenth. If, in answer to the twenty-fifth interrogatories-in-chief, you speak of any conversation between yourself and Captain Cannon, or of any conversation which you heard, state how that conversation arose.

(To this 25th int., libellant objects to so much of it as seeks to elicit statements made by any officer of the Lee out of the presence and hearing of Captain Cannon.)

Sixteenth. If you attempt to state anything which in your judgment will benefit claimants, state also anything you may know in reference to this collision which will tend to show what is the truth, whether it will benefit or injure the one party or the other.

R. H. MARR,
Proctor for Cannon.

282 UNITED STATES OF AMERICA,
Southern District of Ohio, City of Cincinnati, ss:

I, R. S. Fulton, a commissioner of the United States in and for the southern district of Ohio, duly appointed by the honorable the circuit court of the United States for the southern district of Ohio, and authorized to take acknowledgments of bail, to administer oaths, and to take depositions to be used in cases depending in courts of the United States of America, residing in the city of Cincinnati, Ohio, do certify, that by virtue of the annexed commission, issued out of the honorable the district court of the United States of America for the district of Louisiana, I caused to appear before me at my office in said city on the days and dates hereinafter respectively appearing the following-named witnesses, viz: Mahlon Rusk, John Davis, Presley Squires, Eugene Y. Handlan, William Graham, William J. Anshutz, James G. Hughes, Perry Holland, George W. Melona, Joseph C. Martin, John Fink, John N. Shunk, William S. Lynch, Samuel Woodson, and Jacob Williamson, witnesses on behalf of the claimants and respondent in a certain cause now pending in the United States district court for the district of Louisiana, wherein John W. Cannon is libellant, and the steamboat Potomac and owners are claimants and respondents.

MAHLON RUSK, called on behalf of the defendants, being first solemnly sworn according to law, deposes as follows:

Examination-in-chief:

283 Answers given to interrogatories-in-chief for claimants and John N. Shunk, master, &c., hereto attached.

In answer to the first interrogatory, the witness says: My name is Mahlon Rusk: I am a striker on the river or assistant engineer by occupation; I reside in Covington, Kentucky; I have been striker on the river for about three or four years from here to New Orleans and to Memphis, and I was watchman on the river about two months before I went as striker.

In answer to the second interrogatory, the witness says: I was acquainted with the steamboat Potomac in the month of December, 1870; I was on her as striker at that time; she was then engaged in the Cincinnati and New Orleans trade; she was running between the ports of Cincinnati and New Orleans.

Her officers were: John N. Shunk, captain; Aleck Devinney was first clerk; Charles Robinson, second clerk; Perry Holland, mate; I forget the second mate's name. Samuel Hall was head engineer; Press. Squires was second engineer. Hall died on the up trip, near Evansville. I was striker, and John Davis was another. The pilots were George Maloney and Eugene Hanlon. I forget the steward's name; I believe the name was Henry Alford. William Lynch was second mate; William Devinney, was watchman; Mr. Martin was carpenter—Joseph Martin, I think, was his name.

In answer to the third interrogatory, the witness says: The Potomac was fully officered, manned and equipped; she was well manned
284 and equipped on the 21st of December, 1870; she was fully provided for the voyage she was then on; her captain, pilots, engineers, and mates were all sober, steady, and competent men, and were men of good standing, character, and reputation so far as I know. I do not know the age or tonnage of the vessel at that time. She was staunch and riverworthy at the time. Her machinery was good and in good order.

In answer to the fourth interrogatory, the witness says: Her machinery handled well; but I do not know about her steering; I am not a pilot; I never heard any complaint about her steering; and, so far as I know, she handled well.

In answer to the fifth interrogatory, the witness says: I know something about that collision between the Potomac and the R. E. Lee at the time indicated; I was on the Potomac employed as assistant engineer at the time; I had been employed on her at Cincinnati at the commencement of that trip in that capacity.

The Potomac started from the port of Cincinnati on that trip; she left Cincinnati sometime early in the month of December, 1870; I disremember the precise day; she was bound to New Orleans.

In answer to the sixth interrogatory, the witness says: No, sir; nothing unusual; nothing in the way of accidents occurred on the voyage from the time we left Cincinnati up to the time of the collision.

The officers and crew behaved well during that part of the
285 voyage; I saw nothing out of the road; she navigated well and handled well, so far as I know.

In answer to the seventh interrogatory, the witness says: I was on board of the Potomac at the time of the collision as assistant engineer, and off watch at the time. A short time before the collision I was in the texas hall with George Maloney, pilot, off watch; at the time of the collision, I was out on the roof on the starboard side, near the starboard chimney, and had been out there about two minutes; I went out to see

what was going to take place, on account of the ringing of the bells and the blowing of the whistles, and was watching the motions of the two boats, and the shore; George Maloney, Captain Shunk, and a man by the name of Fink, I think his name is, who was formerly captain of the boat in the up trade here, were with me there on the hurricane roof at the time; there were several others ran up there, I think, but I don't know who they were; I was not on watch; I went off watch at eleven (11) o'clock p. m. at night.

In answer to the eighth interrogatory, the witness says: I do know some of the facts and circumstances preceding the collision, and of the collision itself; we were going down the bend side of the river, where a steamboat ought to be running a bend; I was sitting in the texas hall and heard the engine-bells ring to stop her, and then the two short whistles of the Potomac; the bells rung to stop her, and her engines were stopped; I then ran out on the hurricane roof on the starboard side, as I have stated; our boat was about a mile and a half or
286 more above Natchez; as I went out of the texas door, I heard Captain Shunk holler to the other boat, to "stop that boat!" She was making a crossing from the bar to the bend side of the river; we were running the down-stream boats' course, running the bend; I noticed how we were running; I noticed the lights on the shore; I continued to notice the course of the boats until she struck us, which hauled our bow around to the bend side; the Lee struck us with her larboard bow on our starboard bow, twisting our stem around to the larboard; she backed out from us, and went around on the larboard, and went to the bar and sunk; in the mean time we blew three different signals of distress, and received no answer; it was reported that we were sinking, and the captain ordered the boat to be taken to the bar; after we got there, we found she was not sinking rapidly, and we went on to the wharf-boat.

When I went out of the texas, we were backing on our starboard wheel; that I know of. I don't know about the larboard wheel, for I was not on that side. The Lee was about one hundred and fifty yards from us when I heard our bells ring to stop, and she had got within a hundred yards of us before our engines stopped. I know this, for I could see her, and hear her "escapes," and I do not think she was backing until after she struck. She may have backed on her starboard wheel; I couldn't see. I think our starboard wheel made about six or eight revolutions back before the collision. The boats were about three hundred (300) yards apart, I think, as near as I could judge, when
287 I first went out on the roof. I heard no whistles from the Lee before the collision, and do not think she blew any. I had been in the texas hall some five or ten minutes after changing watch. I think the door of the texas was open. Captain Shunk came in there, I think, just after I did, and spoke to Mahoney about something (I don't know what), and I think he left the door open.

After the collision, the Potomac went to the bar and then down to the wharf at Natchez, and being in an unsafe condition to proceed, she laid there and built a bulkhead, filled in the bow with mud, and about noon the next day we drew a tarpulin under her bow, and left Natchez and and went on to New Orleans. I left her at New Orleans, and don't know where she was repaired. I quit her, I think, on the 25th of December. I saw her going over to Algiers, in tow of a tug, as I suppose, to the docks. At the time of the collision the Potomac was about a hundred yards from the Mississippi shore.

In answer to the ninth interrogatory, the witness says: The Potomac

was running the bend all the time, and kept on in that course, in the regular way of running a bend. I don't know that I can describe the river there accurately. There is a bend above Natchez, and a bend below Natchez. Natchez is in the bend. The collision occurred just above Natchez, opposite Brown's garden. There is a bar just above Natchez, about opposite Brown's garden. I am not a pilot. I can't describe the bank on each side of the river. On the Mississippi side there is a high bank, and on the other it is not so high.

288 The Potomac, shortly before the collision, passed the McGill. She met the McGill. At the time she and the McGill met I was on watch in the engine-room, and I couldn't say how they passed each other. She passed the McGill about four miles, I think, above Natchez. I do not know on which side the Potomac passed the McGill. After she passed her, I don't know what course the Potomac pursued until she came within sight of the Lee, nor how the Potomac was held in the river, nor on what course she was held, until after the change of watches. The Potomac was about one hundred or one hundred and twenty-five yards from the Mississippi shore at the time the Lee came in sight.

In answer to the tenth interrogatory, the witness says: I couldn't say when he actually discovered her, or how far it was from the place of collision.

In answer to the eleventh interrogatory, the witness says: I know that the Potomac sounded signals after coming in sight of the Lee. She blew two short whistles. This was for the Lee to take the starboard side of us.

I don't know how far the Potomac was from the Lee at the time she sounded these whistles, as I was in the texas at that time. I suppose she was four hundred or five hundred yards at least from the Lee at the time. I heard no signal or signals from the Lee. I do not think she sounded any at all.

In answer to the twelfth interrogatory, the witness says: There were engine-bells rung on the Potomac after she sounded her whistles.

289 They were rung to back the engines. The bell rung to back on the starboard side. Do not know anything about the larboard engines backing. The starboard made six or eight revolutions back, and then the bell rung to stop backing. Almost immediately after the two whistles were sounded, or at about the same time with the whistles, she rung the engine-bells to back her engines. Following the stopping-bells was the signal, and then the backing-bell was rung at once to back the starboard wheel. She made some six or eight revolutions back, and then rang to stop backing, and stopped backing before the collision. That was all the signals I heard.

In answer to the thirteenth interrogatory, the witness says: As I have said before, the bells were rung to stop the engines, and the engines were stopped immediately. Then the whistles were sounded and the starboard engine bell rung to back and was answered immediately. She made six or eight revolutions back, when the bell was rung to stop backing and she stopped backing immediately.

Mr. Press Squires was the second engineer and Johnny Davis was assistant engineer, both on watch at the time. The two boats were about three hundred yards apart when the engines were stopped, and I think about two hundred or two hundred and fifty (200 or 250) yards apart when the starboard engine commenced backing. That's what I think about it. It is hard to tell distances in the night.

In answer to the fourteenth interrogatory, the witness says: I know

that the Potomac was in the proper course, holding straight down
290 the bend when she blew her signal for the Lee. She made no change in her course, I think, prior to receiving the blow. The Potomac was holding down the river, still in the bend, when she received the blow from the Lee. At the time the blow was given, the Lee was quartering across the river, trying to take the bend from us.

In answer to the fifteenth interrogatory, the witness says: The Potomac was holding her course in the bend and the Lee was trying to take the bend from her, and in trying to do so, struck her on the starboard bow.

In answer to the sixteenth interrogatory, the witness says: She was headed quartering up the river, I think. The Lee's jar knocked her head around to larboard. The Lee was headed quartering toward the Mississippi shore. Both boats were headed quartering toward the Mississippi shore right after the collision.

In answer to the seventeenth interrogatory, the witness says: Her headway was checked before the collision; she was still floating in the current; she had no sternway or stemway, I think, at the time of the collision; I think she was at about a standstill, at the will of the current at the time of the blow.

In answer to the eighteenth interrogatory, the witness says: She went over to the bar; she was reported in a sinking condition, but found to be safe to go on to the wharf-boat; she sounded two or three,
291 three, I guess, different signals of distress; there were five short, distinct whistles each; they were not replied to.

In answer to the nineteenth interrogatory, the witness says: I didn't see her after she left the wharf-boat, and don't know what course the Lee pursued, and don't know what course she was pursuing when the pilot of the Potomac first saw her; I didn't see her until after our engines were stopped, and then, as I said before, she was quartering over from the bar to the bend side; she was coming from the Louisiana shore; I don't know what course the Lee was pursuing when the Potomac sounded her signal for the larboard or how far they were apart; I suppose they were at least 400 or 500 yards apart.

In answer to the twentieth interrogatory, the witness says: The Lee did not make any reply; she steered for the bend side, quartering toward the Mississippi shore; she made no change in her course after I first saw her until the boats struck, except to pull off from us after she saw us; I can't say that the Lee did ring her backing bells; I do not think she did until after the collision; do not think she was backing when she struck the Potomac.

In answer to the twenty-first interrogatory, the witness says: I am not; I know he had the reputation of being a good pilot.

In answer to the twenty-second interrogatory, the witness says:
292 It was a bright, starlight night; the Potomac handled very well so far as I knew; I heard no complaint of her handling.

In answer to the twenty-third interrogatory, the witness says: I don't think she could have avoided the collision at all; I don't think she failed or neglected to take any precaution to avoid it; it was not in any manner attributable to any mismanagement, neglect, or want of care or skill on the part of the officers and crew of the Potomac, so far as I know and believe; the signal-lights were all burning and in their proper places; I noticed that particularly.

In answer to the twenty-fourth interrogatory, the witness says: I think it was through the fault of the officers on the Lee or her pilot; my reason for thinking so is, that she was out of her place in the river and trying to take the bend side from Potomac by crossing her bow;

they could have avoided the collision by carefulness in watching our signal-lights, and taking an up-stream boat's position; I am no pilot and cannot answer about the aptness of a big boat to sheer; I suppose from where the Lee struck our stanchions, from the marks left there, that her guards were some eight feet out of water; it's a mere supposition, however; I don't know how much of a load she had on her; an ascending boat is most easily and quickly handled.

In answer to the twenty-fifth interrogatory, the witness says: I did not, except on the wharf-boat at Natchez; I heard some conver-
293 sation among some of the crew of the Lee that Capt. Cannon told Capt. Shunk that his pilot mistook the Potomac coming down for the McGill going up; Capt. Cannon was present among the crew at the time this conversation went on; I do not know the name of the speaker or of the persons addressed; he was speaking to the party; they were of the crew of the Lee, and Cannon was among them.

In answer to the twenty-sixth interrogatory, the witness says: The Potomac was so injured that she had to go on the docks for repairs; she had to have a new stem put on her, and she suffered other damages that I know nothing about; I didn't go to the docks with her, but am satisfied that she had to have a new stem; I do not know the extent of her damage; I don't know what repairs were made or at what cost; I suppose the repairs were made at Algiers in January, 1871.

In answer to the twenty-seventh interrogatory, the witness says: I do not know who were the owners of the Potomac at that time; they sustained some damage by delay, but how much, I do not know.

In answer to the twenty-eighth interrogatory, the witness says: I do not know that I have any other fact within my knowledge which would be of advantage to the defendant; I have made a rough draft or sketch of the river, showing the place of the collision, and the position of the two boats at the time of the collision; I mark it Exhibit A,
294 and attach it to my deposition, and make it a part of my deposition. As near as I can give it, that is a pretty correct representation of the river; I am not a pilot, and am not so well posted in such things as a pilot would be; I do not pretend that it is entirely accurate, for I am not an artist either.

Cross-examination:

In answer to cross-interrogatories propounded to him by the libellant, as hereto attached, the witness deposed as follows:

In answer to the first cross-interrogatory, the witness says: I have been there three different times. From March to July, 1872, I was there three times on different trips, the dates of which I can't give. The last trip I left New Orleans the 16th of July, 1872; I don't remember the dates of the other two trips precisely.

In answer to the second cross-interrogatory, the witness says: I have been on the Alice Dean and H. S. Turner. Capt. John N. Shunk commanded the Alice Dean, and Capt. William J. Rusk the H. S. Turner.

In answer to the third cross-interrogatory, the witness says: About a mile and a half, or a little less; the Potomac was in the channel on the Mississippi side, running the bend; the Lee was crossing from the Louisiana side to the Mississippi side.

In answer to the fourth cross-interrogatory, the witness says: I
295 did not hear the Lee whistle at all; I don't think she did; I did not see the lights of the Lee until after I heard the whistle of the Potomac; there were two blasts blown by the Potomac before the collision, and none by the Lee.

In answer to the fifth cross-interrogatory, the witness says: I was out when she whistled, but was out shortly after; she was then near a mile and a half above the wharf-boat; I don't think the Lee whistled as I said before.

In answer to the sixth cross-interrogatory, the witness says: I was in the texas hall; I went out on the hurricane roof on the starboard side; I have answered above about the Lee's whistle and refer to my last answer; I suppose the two boats were at least 400 to 500 yards apart, as I have already stated; I don't know, for I was not out when the Potomac blew her whistles.

In answer to the seventh cross-interrogatory, the witness says: About three minutes I think; the larboard bow of the Lee struck the starboard bow of the Potomac, at or near the stem.

In answer to the eighth cross-interrogatory, the witness says: She was holding her course down the bend at the time, and the Lee was crossing over from the bar, and was pointed quartering toward the Mississippi shore. The head of our boat was still holding down the bend at the moment of collision—she was not pointed toward
296 either shore; at the moment of collision the Lee was still holding her course pointing quartering toward the Mississippi shore.

In answer to the ninth cross-interrogatory, the witness says: I heard the bells ring to stop both engines, about the same time or immediately after the whistles were blown; they were close together. The bells to stop were answered at once. The engines were stopped immediately; I heard no engine bells on the Lee until about the time the two boats were about seventy-five or a hundred yards apart, when her engines were stopped. I heard no whistle from the Lee, as I have said before. They were about 250 to 300 yards apart when I first came out; I was in the texas at the time the Potomac rang her bells; I can't tell definitely, but they were probably a little over 300 yards apart when the Potomac rang her bells to stop; they were about 75 or 100 yards apart, as I have stated above, when I first heard the Lee's bells.

In answer to the tenth cross-interrogatory, the witness says: On the hurricane roof, starboard side, near the chimney; the lights of the Natchez wharf-boat were a little to the left of the jackstaff from where I stood.

In answer to the eleventh cross-interrogatory, the witness says: The Lee sunk on the bar above Natchez, above the place where the boats collided; I suppose about a quarter of a mile above where they collided.

297 In answer to the twelfth cross-interrogatory, the witness says: It was about opposite Brown's garden—I think a little above the saw-mill. The Lee sunk about a quarter of a mile above Brown's saw-mill—I think about that. I don't remember distinctly the location of the saw-mill.

In answer to the thirteenth cross-interrogatory, the witness says: About a mile and a half. The Lee sunk about a mile and three-quarters above Natchez, I think.

In answer to the fourteenth cross-interrogatory, the witness says: I did not testify before the local inspectors at New Orleans. I have not seen a copy of the testimony which the witnesses gave there, nor heard it read.

In answer to the fifteenth cross-interrogatory, the witness says: The crew was on the wharf-boat—a part of the crew—the next morning, and they were talking about how the collision happened when I went out. I don't know how it first arose.

In answer to the sixteenth cross-interrogatory, the witness says: I believe I do not know anything further that would be of advantage to either party. I believe I have stated all the facts that came within my knowledge.

MAHLON RUSK.

298 Subscribed in my presence and sworn to before me by the said Mahlon Rusk, after being by me carefully read over to the said deponent, at Cincinnati, Ohio, this tenth day of September, A. D. 1872.

R. S. FULTON,
U. S. Com'r, S. D. O.

299 EXHIBIT "A."—BY MAHLON RUSK.

(Here follows diagram, marked page 299.)

300 JOHN DAVIS, called on behalf of the defendants, being first solemnly sworn according to law, in answer to interrogatories-in-chief and cross-interrogatories hereto attached, deposes as follows:

Examination-in-chief:

Answers given to interrogatories-in-chief propounded by proctor for claimants and John N. Shunk, and hereto attached.

In answer to the first interrogatory, the witness says: My name is John Davis; I am twenty-six years old; I am an engineer on the river; I reside at Newport, Kentucky; I have been employed on the river as striker and engineer five or six years; I have been a licensed engineer going on three years; before I was engaged as a striker, I had been a deck-sweep and deck-hand on the river for six or seven years, and during that time I was in the engine-room a good deal, and got some pretty good idea of how machinery was handled; I was intending to learn to be a striker and engineer; I have run in the Cincinnati and New Orleans trade on the Robert Burns as striker six months; on the Alice Dean as striker two trips; on the John Kilgour, running from Louisville to New Orleans, as striker three months; on the Ezra Porter as striker about three months; and on the Clifton and on the Silver Moon, running from here to Memphis, about four months as striker; and on the Telegraph, United States, Ben Franklin, Fleetwood, General Buell, and General Lytle, running above Louisville, in the same capacity. As second engineer I have run on the Ozark from here to Parkers-
301 burgh and above Cincinnati; on the General Lytle from here to Louisville; on the General Buell, in the same trade; on the Potomac from here to Wheeling and to New Orleans; on the Leonidas from here to New Orleans, and other boats.

In answer to the second interrogatory the witness says: I was acquainted with the steamboat Potomac in the month of December, 1870, and she was running in the Cincinnati and New Orleans trade at that time from the port of Cincinnati to the port of New Orleans; I know who her officers were. Capt. Jno. N. Shunk was master; Mr. Devinney, clerk; Eugene Y. Handlan and George Maloney were pilots; Perry Holland was mate, and W. Lynch, second mate; Mr. C. D. Robinson was also second clerk; a man by the name of Hall was first engineer, who went off the boat at Evansville on the up trip, and died there. Presley Squires was second engineer and Mahlon Rusk and myself were strikers. I had a license as second engineer at the time,

given to me the 11th day of September, preceding, at Cincinnati. William Devinney was the watchman, and a man by the name of Martin was carpenter.

In answer to the third interrogatory the witness says: I know how she was manned and equipped on the 21st day of December, 1870; she was fully officered and fully manned and equipped, and fully provided with every thing required for her voyage; the character and standing of her officers, her master, pilots, engineers, and mates, were good;
302 the boat was new at the time, that being her first season; I don't know what her tonnage was but should judge about six hundred tons; she was staunch and riverworthy; her machinery was very good—tip-top; none better—the ordinary machinery for a side-wheel boat.

In answer to the fourth interrogatory the witness says: So far as I could understand and judge she handled very well. I never heard anything to the contrary, and heard her pilot say, at the time she came out, that she steered as well as any boat he ever was on. Her machinery handled well, and I think I would have known it if she hadn't steered well.

In answer to the fifth interrogatory the witness says: I was on the Potomac at the time, and know something about the collision. I was on her at the time as striker, and had run on her in that capacity for some two months before the collision at different times. She left Cincinnati for New Orleans on that trip, but I don't remember the day.

In answer to the sixth interrogatory the witness says: Nothing unusual occurred on that trip up to the time of the collision. Her officers and crew behaved well, and each man attended his business properly, so far as I know. The boat navigated all right and seemed to handle well.

In answer to the seventh interrogatory the witness says: I was on board the Potomac at the time in the character and capacity of striker. I was on watch in the engine-room at the time—on the foot-box at the engine, and handling the engine at the time whenever required.
303 No one was with me. I went on watch about fifteen or twenty minutes before the collision occurred.

In answer to the eighth interrogatory the witness says: I know some of the facts and circumstances preceding the collision itself. I came on watch at twelve o'clock at night, at the regular time. Somewhere along about five minutes before the collision occurred the bells rung to stop both engines, and both engines were immediately stopped. Then they rung to get ready to back; and I got ready to back; and, so far as I know, Mr. Squires did also. Then my bell rung to back, and I backed. She backed aboutsix or seven revolutions—full revolutions—when I looked out the window and saw a boat, and there was a collision. She was lying kind o' quartering across our bow. I didn't know what boat it was, but heard some one say it was the "R. E. Lee." I was at the starboard engine. The Lee backed away from us and went to shore, and sunk some distance from the shore. I think we went toward the bar, and finally got to the wharf; but I was on duty at the time at the engine, and couldn't tell much about that.

In answer to the ninth interrogatory the witness says: I could not tell the course of the Potomac as I was in the engine-room, but I know we were going down the river, in the bend. I can't describe the course of the river there, except that Natchez lies in the bend; there is a sharp bend above Natchez, and not so much of a bend below. The collision occurred in the bend above Natchez. I cannot describe

304 the banks along there, except I know that there is a bar on the opposite side, and Natchez is on a hill which comes down to the river. When I was going on watch some boat passed us, but I don't know what boat it was; she passed us on our starboard; we went to the larboard of her. I can't tell how far this was from the point of collision, nor what course the Potomac pursued after she passed this boat until she came in sight of the Lee, nor whether she was in sight of the Lee from the pilot-house at the time, nor on what course or how far from the shore she was held when she came in sight of the Lee.

In answer to the tenth interrogatory the witness says: I cannot tell anything about that. I was in the engine-room, or in the texas, and do not know where he first saw her.

In answer to the eleventh interrogatory the witness says: I do not know, except from hearsay, whether the Potomac sounded any whistles or not. I was at the engine where there was a good deal of noise. I did not hear any signals from the Lee. As to the balance of the question I cannot answer. I do not know.

In answer to the twelfth interrogatory the witness says: I know that the engine-bells were rung on the Potomac, but as to the balance of the question I cannot answer more fully than above, for the reason stated in answer to the preceding interrogatories.

In answer to the thirteenth interrogatory the witness says: In regard to the stopping and backing of the engines of the Potomac
305 I have answered already in my answer to the eighth interrogatory, to which I refer. As to the balance of the question I cannot answer, as I was attending to my engine.

In answer to the fourteenth interrogatory the witness says: I know nothing about that.

In answer to the fifteenth interrogatory the witness says: I do not know anything except that I saw the Lee lying quartering across our bow.

In answer to the sixteenth interrogatory the witness says: I cannot answer except as heretofore stated, for I do not know.

In answer to the seventeenth interrogatory the witness says: I know that the Potomac's headway had been checked. I do not think she had sternway on at the time. In my judgment her headway had been overcome by the backing.

In answer to the eighteenth interrogatory the witness says: I do not know, except I heard a distress signal from our boat after the collision, and after the Lee backed away from us. Our engine was stopped then, and I was listening. I heard no reply.

In answer to the nineteenth interrogatory the witness says: I cannot answer, for I do not know.

In answer to the twentieth interrogatory the witness says: I heard no signals from the Lee; and as to the balance of the question I do not know and cannot answer.

306 In answer to the twenty-first interrogatory the witness says: That was my first acquaintance with Mr. Handlan; from the way he handled a boat at night I judged him to be a good man. That is all I can say.

In answer to the twenty-second interrogatory the witness says: It was very dark; cloudy; she handled very well.

In answer to the twenty-third interrogatory the witness says: I do not know; I do not know of any neglect or want of care; every man was in his proper place, so far as I know; as to the signal-lights, I

She was running from Cincinnati to New Orleans—in that trade. Her officers were John N. Shunk, captain; Eugene Y. Handlan and George Maloney, pilots; a man by the name of Devinney was first clerk; Capt. Charles D. Robinson, and a young man whose name I have forgotten, and who died last fall, were second clerks; Perry Holland was mate, and Wm. Lynch was second mate; a man by the name of Devinney was watchman, and a man by the name of Martin was carpenter; Samuel Hall was head engineer; he died on the trip up; I was second engineer, and John Davis and Mahlon Rusk were the strikers; I have generally run as first engineer, and have had a license as such since the law of 1852 was passed.

In answer to the third interrogatory the witness says: She was fully officered, manned, and equipped, and had everything required for her voyage, so far as I know; I know she had everything complete in my department, and had a full crew; she was fitted out under the
312 law, and I knew of no deficiency; her captain, pilots, engineers, and mates were officers in good standing—No. 1 standing; the boat was well officered, the boat was not a year old; she was a new boat; that was her first season; don't know her tonnage; understood she was carrying 850 tons on that trip, and I think she would carry that, loaded as she was; she was loaded deep; she was staunch and river-worthy; I never had any occasion to start the bilge-pumps or the doctor on that trip until after the collision; her machinery was second-hand machinery when it was put in her, but it was good; it was taken off the towboat Cresent City; it was good machinery; the doctor was new, and her boilers were new; her machinery was all in good working order.

In answer to the fourth interrogatory the witness says: She steered well and handled nice; I never had any occasion to stop her and back her; she went right along without any difficulty.

In answer to the fifth interrogatory the witness says: I know something of the collision; I was on the Potomac, and was employed on her as second engineer, and was on watch at the larboard engine at the time; I had been on her about eight or nine days in that capacity; she left Cincinnati (I forget the day of the month it was), and was bound for New Orleans.

In answer to the sixth interrogatory the witness says: Nothing unusual happened on that trip up to the time of the collision; the
313 officers and crew behaved well; there was no drinking on the boat, and I saw nothing out of the way; she was navigated and handled well; she had no difficulty at all, and went right along until the time of the collision.

In answer to the seventh interrogatory the witness says: I was on the Potomac as second engineer at the larboard engine, on watch at the time, and had been on watch since supper. There was no one on the foot-box at the time with me.

In answer to the eighth interrogatory the witness says: I know nothing about it, except what happened in my department. Both stopping bells were rung about the same time, and both engines were immediately stopped. We were both on the foot-box of our respective engines. I could look right across, and I saw the striker at his post. The engines were under my care. Then the gong rung to get ready to back her. We both got ready to back. Then the backing bell for the starboard engine rang to back, and that engine began to back immediately. I judge she made from five to six or seven revolutions back—somewhere along there—before I felt the jar of the collision. Once around is a

revolution; every escapement is half a revolution. My engine was fixed ready to back, but the bell never rang to back before the collision. I heard no whistles before the collision; after the collision I heard the Potomac's distress signals. The engines were all quiet then, and I was listening. Before the collision the engines were at work, and I was engaged on the foot-box, not anticipating any whistle.
314 The engineer, down off the foot-box on the deck, will usually hear the whistles, but if he is up on his foot-box occupied with his engine, and among the noise of the machinery and the escaping steam, will very often not hear the whistles. It is not anything singular that an engineer engaged at his engine on the foot-box does not hear the whistle. It is very common thing that he does not.

In answer to the ninth interrogatory the witness says: I know nothing of the course of the Potomac before the collision. There is a natural bend in the river there, and Natchez is at the foot of the bend. There is a high, bluff bank on the Natchez side, and a bar on the opposite side. I only know of our passing a boat just before the collision from hearsay—all that I know about it is from hearsay. As to the balance of the question I cannot answer, for it was night, and I was in the engine-room and engaged at my engine.

In answer to the tenth interrogatory the witness says: I do not know and cannot state.

In answer to the eleventh interrogatory the witness says: I do not know whether the Potomac sounded any signals before the collision, except from hearsay. I didn't hear any, as I have said, and I can't state what signals they were. I know nothing about the signals before the collision. I heard no signal or signals from the Lee at all.

In answer to the twelfth interrogatory the witness says: I know the engine-bells were rung on the Potomac; but don't know whether
315 it was before or after her signals. I didn't hear any signal, and couldn't tell. I don't know how far off the Lee was when our bells were rung.

In answer to the thirteenth interrogatory the witness says: I have stated that the engines of the Potomac were both stopped, and the starboard engine backed. They were stopped, I suppose, about a minute and a half or two minutes before the collision. The starboard engine was backed immediately after it was stopped. I couldn't tell how far the two boats were apart when the engines were stopped, or when they commenced backing.

In answer to the fourteenth interrogatory the witness says: I cannot answer anything about that, for I do not know.

In answer to the fifteenth interrogatory the witness says: After daylight the next morning, at Natchez, I went to examine our bow, and found she was struck on the starboard bow, near the stem; her stem-band was broke, and appeared to be knocked over to the larboard. I also went aboard the Lee, when she was afterwards lying at the docks at Algiers, across the river from New Orleans, and examined her. I found she struck us with her larboard bow at or very near the stem. From that, I judge they came together, the one quartering across the other's bow. They couldn't have come together in any other way. I saw nothing that night from which I could form an opinion as to how they came together, as I was in the engine-room. I don't know how far from the east bank of the river the boats were when they
316 struck, nor how far above Natchez. The next morning the Lee lay over on the bar, I should judge about a mile or a mile and a half above the wharf-boat at Natchez.

In answer to the sixteenth interrogatory the witness says: I don't know how the boats were headed.

In answer to the seventeenth interrogatory the witness says: I know it was checked, and I think the headway of the boat was exhausted from this fact. I was watching my engine, expecting the backing bell to ring. It did not ring. The engine was standing on a half-centre; that is, the "T" head was right in the middle of the slide, and standing still, and me blowing through. If she had had any headway on, the wheel would have revolved, and the "T" head would have been moving backward and forward. I noticed this before I felt the jar. I don't think she had any sternway, for the same reason. I think, from the time that her engines had been stopped and her starboard engine had been backing, loaded as she was, that she could have had very little headway on.

In answer to the eighteenth interrogatory the witness says: They put the Potomac over to the bar, and the pilot hollered to me to let the starboard engine roll over very slow to hold her up to the bar. He said, "I am on a bar here, let your starboard engine roll over slow, to hold her up to the bar." That was what he hollered to me through the trumpet, and I hollered over to the striker to let the starboard
317 engine roll over slow. My engine was stopped at the time. We examined her to see if we could keep her up. He then hollered to me that we would go down to the wharf-boat and put the passengers off. We went to the wharf-boat and put off the passengers. I don't know how long we laid at the bar before we went to the wharf-boat—fifteen or twenty minutes, I suppose—maybe, not so long. The Potomac sounded a signal of distress after the collision. Some three or four whistles. I didn't hear any reply.

In answer to the nineteenth interrogatory the witness says: I can't answer anything about what is inquired of in that question.

In answer to the twentieth interrogatory the witness says: I can't answer anything about that; I heard no signals from the Lee.

In answer to the twenty-first interrogatory the witness says: I know enough about the pilot to know that he knew exactly where he was. He knew the river well there. I have known him as a pilot, personally, for about four years. He has been running down there a great deal.

In answer to the twenty-second interrogatory the witness says: It was a very dark night, and it was very cold. She handled very well. I never heard any complaint.

318 In answer to the twenty-third interrogatory the witness says: So far as I know, I don't think the Potomac could have avoided the collision; she did not to my knowledge fail or neglect to take all precaution to avoid it; I think the officers and crew all through did their duty, and that the collision was not attributable to the want of care, or skill, or to the mismanagement or neglect of any of them; I don't know whether the signal-lights were burning or not; it was no part of my duty to know that.

In answer to the twenty-fourth interrogatory the witness says: I don't know how the Lee was loaded, for she was sunk when I saw her; but if she was light, as I am informed she was, and going up stream, she would have handled easier and quicker than our boat, which was loaded heavy and coming down stream; I think she would have more opportunity to avoid a collision; all boats are liable to sheer off from a bar and run from shallow into deep water; a boat coming up has the advantage in getting out of the way of another better than one coming

down; she can stop quicker, back quicker, sheer quicker, and run in against the shore or under a bar, which a down-stream boat can't do.

In answer to the twenty-fifth interrogatory the witness says: I never heard any such conversation.

In answer to the twenty-sixth interrogatory the witness says:
319 The Potomac was injured; she was broke up about her bow a good deal; they spliced her stem at New Orleans; took her stem-band off, had it welded and put on again; repaired her bow, guard, nozing, etc., but I do not know the cost of it; she had to go on the docks to be repaired; I know of no work that was done on her that was not caused by the collision: I stayed on her and did some work in my department while she was being repaired.

In answer to the twenty-seventh interrogatory the witness says: I don't know who her owners were; they sustained some damage by delay; she laid at Natchez from one o'clock at night until about one to two o'clock the next day; we were delayed, I suppose, about six hours in going down from Natchez to New Orleans; we couldn't run as fast; I don't know what this damage by delay cost; I have no account of it.

In answer to the twenty-eighth interrogatory the witness says: I don't think of any other fact now that would be of advantage to either party; none occurs to me.

Cross-examination:

In answer to the first cross-interrogatory the witness says: I have not been there at all since the first day of January last.

In answer to the second cross-interrogatory the witness says: Since the first of January last I have been on the Kate Putnam,
320 Captain Schuman; after the ice broke up in the spring, I went on the Lizzie Gardner, a towboat, Captain Barrett, of West Virginia; I have made a couple of trips on the Wildwood, Captain Power, of Aberdeen; I have been on the Charley Bowen, Captain Shoemaker, of Mason City, West Virginia. That is all.

In answer to the third cross-interrogatory the witness says: I cannot answer, for I was in the engine-room and couldn't see the lights of the Lee, and did not see where they were at the time.

In answer to the fourth cross-interrogatory the witness says: I can't answer, for I didn't see the lights of the Lee, nor hear the whistles spoken of.

In answer to the fifth cross-interrogatory the witness says: I cannot answer for reasons given in my answer to the last two cross-interrogatories.

In answer to the sixth cross-interrogatory the witness says: Not having heard those whistles I cannot answer, except that I must have been on the foot-box.

In answer to the seventh cross-interrogatory the witness says: Not having heard the whistle, I cannot answer the first part of the question. The larboard bow of the Lee struck our starboard bow near the stem.

In answer to the eighth cross-interrogatory the witness says: I don't know. I was in the engine-room and didn't see.

321 In answer to the ninth cross-interrogatory, the witness says: I didn't hear the whistle. I heard the engine-bells rung to stop both engines; the gong rung to get ready for backing, and the bell rung to back the starboard engine. I did not hear the engine-bells or the whistle from the Lee, and cannot answer the balance of the question for that reason.

In answer to the tenth cross-interrogatory, the witness says: I was standing on the foot-box of the larboard engine of the Potomac at the time. As to the balance of the question, I cannot answer, for I didn't see.

In answer to the eleventh cross-interrogatory, the witness says: I know where the Lee sunk, but I don't know where they collided, for they might have dropped down the river some after the collision. I cannot answer the whole question for that reason. She sunk on a bar above the city, about a mile or a mile and a half above the wharf-boat.

In answer to the twelfth cross-interrogatory, the witness says: I cannot answer any part of that question. I didn't observe. I saw her lying up at the bar, and they said she was sunk. I had other things to attend to, and didn't notice.

In answer to the thirteenth cross-interrogatory, the witness says: The Lee sunk about a mile or a mile and a half above the wharf-boat, as I have stated. I can't answer as to the place of collision.

322 In answer to the fourteenth cross-interrogatory, the witness says: I did. The testimony I gave was correct, so far as it was given at all. I hav'n't seen a copy of any of it. I don't recollect that. It was read over to me after it was written down. I hav'n't seen a copy of it since.

In answer to the fifteenth cross-interrogatory, the witness says: I have stated that I did not hear any such conversation.

In answer to the sixteenth cross-interrogatory, the witness says: There is nothing more that I think of that would benefit or injure either party.

P. SQUIRES.

Subscribed in my presence, and sworn to before me, this 24th day of September, 1872.

R. S. FULTON,
U. S. Com'r.

EUGENE Y. HANDLAN, being first solemnly sworn according to law, in answer to the interrogatories-in-chief, and the cross-interrogatories hereto attached, testified as follows, to wit:

Examination-in-chief:

In answer to the first interrogatory, the witness says: My name is Eugene Y. Handlan. I was thirty-two years old last June. I am a pilot on the river, from Cincinnati to New Orleans, by occupation. I reside at Covington, Kentucky. I have been running on the

323 river, under a license as a pilot, for ten years. I have been on the river about thirteen years; about three years as steersman. My tenth renewal will be on the 10th of next November. They give us a license for only one year. I am employed in the Cincinnati and New Orleans trade, principally, and have been since I have been on the river. I sometimes go from Cincinnati to Fort Smith, up the Arkansas River.

In answer to the second interrogatory, the witness says: I was acquainted with the steamboat Potomac, in the month of December, 1870. That was her first trip in the Cincinnati and New Orleans trade. She was running from the port of Cincinnati to the port of New Orleans. Her officers were Captain Shunk, now captain of the Shannon; pilots, Geo. Maloney and Eugene Y. Handlan; clerks, Mr. Devinney, first clerk, and Chas. D. Robinson, second clerk. I think Robinson had some young man to assist him, but I don't remember who he was. Engineers, Presley Squires and Mr. Hall, who is since dead. Mahlon Rusk,

and another young man, whose name I don't know, but whose nickname was "Snapper," were strikers. Mates, Perry Holland was one, and I don't know the other's name. I don't know the name of the watchman, or carpenter, or steward; I know they were all on there.

In answer to the third interrogatory, the witness says: She was fully officered and manned, and as well equipped for the voyage as any boat I was ever on. As far as I know, she was fully equipped, and had everything required for her voyage, and for the trade she was in.

324 The character and standing of the captain, pilots, mates, and engineers was all good. They are all sober men, and all had the reputation of being first-class men in their business. She was a new boat; I can't state her age. She was loaded very deep; her guards in the water. The amount of freight she had on I do not know; nor do I know her tonnage. To the best of my knowledge, she was staunch and river-worthy. Her machinery was said to be good machinery, and I never heard any complaint of it. Her machinery worked well.

In answer to the fourth interrogatory, the witness says: The Potomac handled very well, and steered very nicely, and a good deal better than the most of boats. We had no difficulty at all about her handling and steering.

In answer to the fifth interrogatory, the witness says: I know all about the collision. I was on the Potomac, at the time, as pilot, on watch at the wheel. I had just been employed on that boat on the 9th of December. On that trip she left Cincinnati on the 9th of December, bound to New Orleans.

In answer to the sixth interrogatory, the witness says: Nothing more occurred on that trip, up to the time of collision, than usually occurs on a low-water trip in that trade. The water was low, and we were loaded deep. We were delayed in the Ohio River more or less on account of low water. The officers and crew all did their duty, as far as I know. If they had not, I should have known it. She handled very well, and was navigated well.

In answer to the seventh interrogatory, the witness says: I

325 was on board, as pilot, in the pilot-house, on watch. I had been on watch since eleven o'clock. No one was with me. I was on watch piloting the boat.

In answer to the eighth interrogatory, the witness says: I do know the circumstances preceding and concerning the collision. I met the McGill, bound up stream, in the neighborhood of three miles, probably, above Natchez—three miles or more above Natchez. She blew two whistles, and I answered her with two whistles, and we passed accordingly, I being on the bend side and her on the bar side. After I got about half a mile further down the river I seen the signal-lights of a steamer coming up. She had left the wharf-boat and was out toward the bar, and probably a mile or a mile and a quarter distant. I was in the bend. When I was within what I supposed to be eight hundred yards (it might have been nine hundred yards, but I supposed she was at least eight hundred yards away—distances on the river you cannot tell with any certainty after night), she not signaling, I stopped my engines. At the same time, as I let go of the bell handles, I put my foot on the treadle and blew two ordinary blasts of the whistle—two distinct blasts—and pulled the two backing bells to get ready to back. When my whistles blew, to the best of my knowledge, the other boat was from seven to eight hundred yards off. I was trying to follow the rules, which I understood very well—the inspector's rules governing pilots. We were laying straight with the shore, holding on the lights

on the bank above the Natchez wharf-boat. There are some little
326 houses under the hill above the Natchez wharf-boat, and there are four or five lights along the road coming down the side of the hill, which can always be seen there at any time of night. I was holding on or pointed toward the small houses about two hundred yards above the Natchez wharf-boat. After I had rung the bells to prepare for backing I pulled the ropes to back on both engines. I know the starboard engine was backing; my attention was drawn to the starboard side, as the boat was coming from that side. I suppose she had backed some eight or ten revolutions before the collision. The head way of the boat was run out, and I think she was just floating with the current. The Lee blew no whistle at all. Her whistle can be heard about three miles. It is a very loud and distinct whistle. She struck us on our starboard bow near the stem, we going under her guards and striking her on her larboard bow about ten or fifteen feet, as near as I could judge, aft of the stem. I have not seen it since. She was light and her guards were way up out of the water. The collision occurred out in the river, about 60 or 70 yards or more from the Mississippi shore and a little above Brown's garden; as near as I could tell after night. The night was not a clear night—it was cloudy but not a rough night—not a bad night. We were holding on the Natchez wharf-boat, and she was pointed towards the bend coming from the bar at the time of the collision. After the two boats came together, they came broad-
side together, both pointing toward the Mississippi shore. She was
327 a large boat and could shove us anywhere. She was a good deal faster than our boat. It is my judgment that she did not stop her engines until she got very close to us, and that she never backed her engines at all, for she went right past us when we swung together. I blew three short whistles, the distress signal, and received no answer. I supposed we were hurt. She backed away from the bank and backed away past our stern and went over to the bar. I don't think she hit the bank, but I think she came near it. I immediately twisted the Potomac around and worked her up on her starboard engine, and went over against the bar, about three hundred yards below where the Lee lay. After laying there a short time to see what damage was done, Captain Shunk told me to round her out and go down to the wharf-boat, and we did so. We laid there until after breakfast the next day and built a bulkhead. I pulled both bells to back before the collision, and I suppose they both did back. I know the starboard engine backed, as my attention was called to that side. The pilot house was open on that side and shut on the other. It was a cold night. If the larboard engine did not back, but remained stopped, the tendency would be to twist her head away from the Lee toward the Louisiana shore, as the Lee was quartering across toward the Mississippi shore. I supposed she did back on the larboard engine until I heard the engineer at that engine say, at New Orleans, that she had no headway at the time of the collision, for her slide was standing still on the centre and that she
not back. It sometimes occurs on any boat that you do not pull
328 the bell strong enough, or for some reason it does not answer the pilot. Just before the collision I heard Captain Shunk holler to the other boat two or three times to back that boat; to stop that boat. He hollered that two or three times. At the time he was on the hurricane roof on the starboard side of the boat near the starboard chimney. There were two or three others out there, but I don't know who they are.

In answer to the ninth interrogatory, the witness says: Shortly be-

fore she came in sight of the Lee the Potomac was running slowly down the bend, as a loaded boat should do, shaping the bend; going down, it is a left hand bend, both above and below the place of the collision; on the opposite side of the river is a point and a bar; the bank above Natchez is a very soft soil until you get down to the hill, and from the hill down it don't wash much; that is the cause of the lumps or mud points on the Natchez side above the wharf-boat; the soil has washed off; because of these lumps, the boats leaving the Natchez wharf-boat do not go up that shore, but cross over toward the bar and run up the bar; in extreme high water there is a point way for steamers behind that bar which steamers run, because the distance is shorter; the other shore is bottom land, protected by a levee; it is very soft, loose soil, and would wash, but it is protected, and there is little current there; at the time of the collision the bar opposite and above Natchez was dry, and all pilots that I was ever with leave the Natchez wharf-boat and run over around that bar; they do not go up the bend; there
329 is a landing in there below the saw-mill, and packets may sometimes run in there to get lumber; we didn't meet any other boat except the McGill; we did pass the McGill about three miles or more above Natchez; we passed down on the bend side of her; she took the bar side; it was probably a mile and a half from the place of collision that we passed the McGill; after she passed the McGill the Potomac went on down the river shaping the bend—parallel with the bend—some 60 or 70 yards from the shore—from the Mississippi shore—until she came in sight of the Lee.

In answer to the tenth interrogatory, the witness says: About a mile or a mile and a quarter off from her when I first discovered her, and, as near as I could judge, not quite or about half a mile from that point to the place of collision.

In answer to the eleventh interrogatory, the witness says: I know that the Potomac sounded two distinct blasts of the whistle after coming in sight of the Lee; I sounded them myself. She did that because I thought she did not see us at all, for she did not signal as required by law of the ascending boat, and because that is the proper signal for the down-stream boat. She was between seven hundred and eight hundred yards from us when our signals sounded. I was trying to follow the rules, and had stopped the engines just before. I did not hear any signal from the Lee, and if she had blown any I should have heard them, for she has a very loud whistle.

330 In answer to the twelfth interrogatory, the witness says: The bells to get ready to back on both engines were rung after the Potomac sounded her signals, and then I made an effort to ring the bells to back on both engines, and always thought I had rung the bells to back on both engines. I am sure, as I have stated before, that the starboard engine did back.

In answer to the thirteenth interrogatory, the witness says: I know that the engines of the Potomac were stopped and that the engine on the starboard was backed. Presley Squires was standing watch and his assistant. They were stopped when the boats were about eight hundred yards apart, and backed when they were from six to seven hundred yards apart. I think they were fully eight hundred yards apart, perhaps more, when the engines stopped.

In answer to the fourteenth interrogatory, the witness says: She was pursuing her proper course; she may have slightly changed her course toward the starboard, shaping the bend, before the collision. She was heading to the wharf-boat at the time the blow was struck. The Lee

on the bank above the Natchez wharf-boat. There are some little
326 houses under the hill above the Natchez wharf-boat, and there are four or five lights along the road coming down the side of the hill, which can always be seen there at any time of night. I was holding on or pointed toward the small houses about two hundred yards above the Natchez wharf-boat. After I had rung the bells to prepare for backing I pulled the ropes to back on both engines. I know the starboard engine was backing; my attention was drawn to the starboard side, as the boat was coming from that side. I suppose she had backed some eight or ten revolutions before the collision. The head way of the boat was run out, and I think she was just floating with the current. The Lee blew no whistle at all. Her whistle can be heard about three miles. It is a very loud and distinct whistle. She struck us on our starboard bow near the stem, we going under her guards and striking her on her larboard bow about ten or fifteen feet, as near as I could judge, aft of the stem. I have not seen it since. She was light and her guards were way up out of the water. The collision occurred out in the river, about 60 or 70 yards or more from the Mississippi shore and a little above Brown's garden; as near as I could tell after night. The night was not a clear night—it was cloudy but not a rough night—not a bad night. We were holding on the Natchez wharf-boat, and she was pointed towards the bend coming from the bar at the time of the collision. After the two boats came together, they came broadside together, both pointing toward the Mississippi shore. She was
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fore she came in sight of the Lee the Potomac was running slowly down the bend, as a loaded boat should do, shaping the bend; going down, it is a left hand bend, both above and below the place of the collision; on the opposite side of the river is a point and a bar; the bank above Natchez is a very soft soil until you get down to the hill, and from the hill down it don't wash much; that is the cause of the lumps or mud points on the Natchez side above the wharf-boat; the soil has washed off; because of these lumps, the boats leaving the Natchez wharf-boat do not go up that shore, but cross over toward the bar and run up the bar; in extreme high water there is a point way for steamers behind that bar which steamers run, because the distance is shorter; the other shore is bottom land, protected by a levee; it is very soft, loose soil, and would wash, but it is protected, and there is little current there; at the time of the collision the bar opposite and above Natchez was dry, and all pilots that I was ever with leave the Natchez wharf-boat and run over around that bar; they do not go up the bend; there
329 is a landing in there below the saw-mill, and packets may sometimes run in there to get lumber; we didn't meet any other boat except the McGill; we did pass the McGill about three miles or more above Natchez; we passed down on the bend side of her; she took the bar side; it was probably a mile and a half from the place of collision that we passed the McGill; after she passed the McGill the Potomac went on down the river shaping the bend—parallel with the bend—some 60 or 70 yards from the shore—from the Mississippi shore—until she came in sight of the Lee.

In answer to the tenth interrogatory, the witness says: About a mile or a mile and a quarter off from her when I first discovered her, and, as near as I could judge, not quite or about half a mile from that point to the place of collision.

In answer to the eleventh interrogatory, the witness says: I know that the Potomac sounded two distinct blasts of the whistle after coming in sight of the Lee; I sounded them myself. She did that because I thought she did not see us at all, for she did not signal as required by law of the ascending boat, and because that is the proper signal for the down-stream boat. She was between seven hundred and eight hundred yards from us when our signals sounded. I was trying to follow the rules, and had stopped the engines just before. I did not hear any signal from the Lee, and if she had blown any I should have heard them, for she has a very loud whistle.

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In answer to the fourteenth interrogatory, the witness says: She was pursuing her proper course; she may have slightly changed her course toward the starboard, shaping the bend, before the collision. She was heading to the wharf-boat at the time the blow was struck. The Lee

was heading quartering from the Louisiana shore or bar toward the Mississippi shore, into the bend.

In answer to the fifteenth interrogatory, the witness says: The shape they came together was this: The Lee struck us in the starboard stem with her forward larboard quarter, her stem being about ten or fifteen feet forward or past our stem, knocking our stem and stem-band round to the larboard. They were 60 or 70 yards, or more, from the
331 Mississippi shore, and from a mile to a mile and a half above Natchez when they struck.

In answer to the sixteenth interrogatory, the witness says: Both headed right straight toward the Mississippi shore, as straight as could be.

In answer to the seventeenth interrogatory, the witness says: I suppose her headway was checked all except she was floating in the current. She didn't have any sternway; she was too heavily loaded to get sternway on without backing sometime.

In answer to the eighteenth interrogatory, the witness says: She sounded three short whistles after the collision and received no reply. I think I repeated the three whistles afterwards, but am not sure. I received no answer.

In answer to the nineteenth interrogatory, the witness says: That I don't know, for I didn't see her when she left the Natchez wharf-boat. When I first saw the Lee she was coming up the bar, I couldn't tell how far from the bar; I thought about the usual course for an up-stream boat. She was still coming up the bar when the Potomac sounded her signal, some seven to eight hundred yards apart, below us, on our starboard.

In answer to the twentieth interrogatory, the witness says: The Lee made no reply; if she had I would have heard her. After I sounded the whistle the Lee soon started off toward the bend as if she
332 was running from the bar. She approached us on the starboard side, quartering across our bow, up to the moment of collision. I never heard the Lee ring any bells at all until after the collision. She may have stopped and checked her engines, but I don't think she backed until after the collision; then I know she backed. I don't think the Lee was backing at the time of the collision.

In answer to the twenty-first interrogatory, the witness says: I was well acquainted with the river and knew where I was as near as any pilot knows where he is that runs in that trade.

In answer to the twenty-second interrogatory, the witness says: It was not a clear night; it was a rather cloudy night, but not a bad night to run on the river. It was such a night as made the lights show brightly. She handled first-rate that night.

In answer to the twenty-third interrogatory, the witness says: No, sir; she could not have avoided the collision in any way, shape, or form. She didn't fail or neglect to take every precaution to avoid it. The collision was not attributable to any mismanagement, neglect, or want of care or skill on the part of the officers or crew of the Potomac. The Potomac's signal-lights were both in their proper places and burning brightly.

In answer to the twenty-fourth interrogatory, the witness says:
333 It was caused by the fault of the Lee in not blowing her whistles and in crossing over from the bar. She could have stopped and got away from us, being the up-stream boat; and if she had done that the collision would have been avoided. Any boat, large or small, will sheer from a bar to deep water; a large, rapid boat will sheer more or

quicker than a small one or a slow one. The Lee's guards must have been fully six feet out of water at the bow; it would not be so much back at midships on account of her sheer. She had a good deal of sheer. She looked to me like she was light. An ascending boat is a great deal more easily handled and manœuvred than a descending boat; she can back quicker, sheer to one side or the other quicker, run in under a bar, and get away from a descending boat. A loaded descending boat can do very little but stop or keep on her course—she is comparatively helpless.

In answer to the twenty-fifth interrogatory the witness says: I never heard Captain Cannon or any of the officers of the Lee say anything about the collision, excepting the mate, who said to Mr. Maloney, my partner, in my presence, at the custom-house in New Orleans, that there was steersman in their pilot-house by the name of Roberts; I understood he was a nephew of Captain Cannon; this was a few days after the collision, while the boats were laying there, and the same day he gave his deposition before the inspectors; he also said that he was tired and had just laid down upon some chairs in the texas
334 when the collision occurred, and that he didn't know much about it; this conversation was addressed to Mr. Maloney, and in my presence.

In answer to the twenty-sixth interrogatory the witness says: She was injured; her stem-band was knocked off; her butts were sprung, and her bow was injured; but I didn't examine the injuries particularly; she went on the docks and laid there twelve or fourteen days for repairs.

In answer to the twenty-seventh interrogatory the witness says: I do not know who the owners were; I understood that Captain Fink and Mr. Semple were owners; but I do not know whether there were any others or not; I know she was delayed; she went on the docks and remained there twelve or fourteen days; she was delayed at Natchez —how long I don't know; she was retarded some in going down—some four or five hours, I think.

In answer to the twenty-eighth interrogatory the witness says: It is the usual course for the ascending boat to keep the bar side of the Natchez bend, and the descending boat the bend side. As I understand pilot rule No. 2, the ascending boat should blow her signal first; and it is not the duty of the descending boat to signal unless she gets within eight hundred yards; or if you think a boat don't see you. That is the usage of pilots under this rule. I know Jacob Remelein, one of the oldest and best of pilots on the river, had his license suspended because he did blow first, by the Cincinnati inspectors. That was
335 in the collision between the United States and America. The New Orleans inspectors informed me, when I took out my last license, that a descending boat could blow first. I never so understood the rule, unless we got within eight hundred yards without blowing. The channel is wide at that part of the river, and if the Lee had kept on her course she would have passed five hundred feet to our starboard; and she could have gone further away than that if she had wanted to. There was no obstruction in the way. I present a copy of the inspectors' rules, under which we were running at that time, and make it a part of my deposition.

Cross-examination:

In answer to the cross-interrogatories of the libellant, hereto attached, the witness testifies as follows:

In answer to the first cross-interrogatory the witness says: I have been there six times. I cannot give the dates definitely. Five times on the Groesbeck and once on the Belle Vernon; and have just returned from there.

In answer to the second cross-interrogatory the witness says: On the John H. Groesbeck, Captain Hart; Belle Vernon, Captain Darragh; R. C. Gray, Captain Yerkes.

In answer to the third cross-interrogatory the witness says: Upwards of two miles when I first saw the lights of the Lee. I
336 don't think she was over a quarter of a mile above the wharf-boat. The Potomac was on the bend side going down, and the Lee was on the bar side coming up.

In answer to the fourth cross-interrogatory the witness says: Didn't hear her whistle. It was two or three minutes after I saw the lights of the Lee before I heard the whistle of the Potomac. There were two blasts of the Potomac's whistle and none of the Lee's.

In answer to the fifth cross-interrogatory the witness says: A mile and a half or more. The Lee didn't whistle. All the time the Potomac was on the bend side and the Lee on the bar side, until she came from the bar side.

In answer to the sixth cross-interrogatory the witness says: I was at the wheel in the pilot-house, piloting the boat. I didn't leave there until after we landed at Natchez. The boats were between 700 and 800 yards apart when I heard the Potomac's whistle. I didn't hear the Lee's whistle. After I whistled, the two boats came together in about a minute and a half.

In answer to the seventh cross-interrogatory the witness says: It was about a minute and a half after the Potomac's whistle that the two boats came together. The larboard quarter of the Lee and the starboard stem of the Potomac came together.

337 In answer to the eighth cross-interrogatory the witness says: She was headed to a point a little to the left of the wharf-boat at the time she whistled, and the Lee was pointed straight up the bar. At the time of the collision the Potomac was headed at the wharf-boat, and the Lee across the river toward the Mississippi shore.

In answer to the ninth cross-interrogatory the witness says: The bells to ship up for backing, and the backing bells. These bells followed immediately the Potomac's whistle. Did not hear the engine bells of the Lee till after the collision, and didn't hear her whistles at all. The boats were eight hundred yards apart when I first heard the bells of the Potomac. This was immediately before the Potomac's whistles.

In answer to the tenth cross-interrogatory the witness says: I was in the pilot-house, at the wheel. The lights were right straight ahead.

Answers to the balance of the question: The lights were right straight ahead.

In answer to the eleventh cross-interrogatory the witness says: She sunk on the bar about a mile and a half above the wharf-boat, if anything, a short distance above where the boats collided—say about 150 yards.

338 In answer to the twelfth cross-interrogatory the witness says: I think the place of collision was about a quarter of a mile, or a little less, above Brown's saw-mill, and just a little above Brown's garden. The Lee sunk a little over a quarter of a mile above Brown's saw-mill; she sunk 150 or 200 yards less than a quarter of a mile above

Brown's garden. These distances I am judging now from looking at it from the wharf-boat the next morning. I wasn't up there.

In answer to the thirteenth cross-interrogatory the witness says: The place of collision was about a mile and a half above the wharf-boat, and the Lee sunk about 150 yards further up.

In answer to the fourteenth cross-interrogatory the witness says: Yes, sir. The testimony I gave there was as near correct as I could state in answer to the questions asked me. I have seen no copy of any of it since that time.

In answer to the fifteenth cross-interrogatory the witness says: The conversation that I heard arose in this way: The mate, who had been giving his testimony before the inspectors, came out with Maloney and me, walked with us as far as the corner of the custom-house and the canal, and made that statement.

339 In answer to the sixteenth cross-interrogatory the witness says: I don't think of anything more now that would benefit either party.

EUGENE Y. HANDLAN.

Subscribed in my presence and sworn to before me this 25th day of September, A. D. 1872.

R. S. FULTON,
U. S. Com'r, S. D. O.

340 (Here appears "Rules and Regulations for the Government of Pilots," and part of deposition of Eugene Y. Handlan.)

340*a* Dist. ct. of the U. S. for the dist. of La.

JOHN W. CANNON, LIBELLANT,
vs.
OWNERS OF ST'BOAT POTOMAC, DEF'TS.

Presented by Eugene Y. Handlan and made part of his deposition, this 25th day of September, A. D. 1872.

(Signed) R. S. FULTON,
U. S. Com'r, S. D. O.

Rules and regulations for the government of pilots of steamers navigating the rivers flowing into the Gulf of Mexico, and their tributaries.

Revised and adopted by the board of supervising inspectors, January 26th, 1869. As authorized by acts of Congress to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam.

RULE I.—When steamers are approaching each other, the signal for passing shall be one sound of the steam-whistle to keep to the right, and two sounds of the steam-whistle to keep to the left. These signals to be made first by the ascending steamer. If the dangers of navigation, darkness of the night, narrowness of the channel, or any other cause, render it necessary for the descending boat to take the other side, she can do so by making the necessary signals, and the ascending steamer must govern herself accordingly. These signals to be observed by all steamers, either day or night.

RULE II.—Should steamers be likely to pass near each other, and these signals should not be made and answered by the time such
340*b* boats shall have arrived at the distance of eight hundred yards

from each other, the engines of both boats shall be stopped; or should the signal be given and not properly understood from any cause whatever, both boats shall be backed until their headway shall be fully checked, and the engines shall not be again started ahead until the proper signals are made, answered, and understood. Doubts or fears of misunderstanding signals shall be expressed by several short sounds of the whistle in quick succession.

RULE III.—When two boats are about to enter a narrow channel at the same time, the ascending boat shall be stopped below such channel until the descending boat shall have passed through it; but should two boats unavoidably meet in such a channel, then it shall be the duty of the pilot of the ascending boat to make the proper signals, and when answered by the descending boat to lie as close as possible to the side of the channel the exchange of signals may have determined, as allowed by rule first, and either stop the engines or move them so as only to give the boat steerage-way, and the pilot of the descending boat shall cause his boat to be worked slowly until he has passed the ascending boat.

RULE IV.—When a steamer is ascending and running close on
340*c* a bar or shore, the pilot shall in no case attempt to cross the river when a descending boat shall be so near that it would be possible for a collision to ensue therefrom.

RULE V.—No pilot of a descending steamer shall run down any island chute which is not the usual channel of the river, except such chutes as are designated by these rules, or may hereafter be designated by the board of supervising inspectors.

RULE VI.—When any steamer, whether ascending or descending, is nearing a short bend or point, where, from any cause, a steamer approaching in an opposite direction cannot be seen at a distance of six hundred yards, the pilot of such steamer, when he shall have arrived within six hundred yards of that bend or point, shall give a signal by one long sound of his steam-whistle as a notice to any steamer that may be approaching; and should there be any approaching steamer within hearing of such signal it shall be the duty of the pilot thereof to answer such signal by one long sound of his steam-whistle, when both boats shall be navigated with the proper precautions, as required by preceding rules.

RULE VII.—When a steamer is running in a fog or thick
340*d* weather, it shall be the duty of pilot to sound his steam-whistle at intervals not exceeding two minutes.

RULE VIII.—When steamers are run'ing in the same direction, and the pilot of the boat which is astern shall desire to pass either side of the boat ahead, he shall give the signal as in Rule I, and the pilot of the boat ahead shall answer by the same signal, and allow the other to pass on the side selected, and shall in no case attempt to cross her bow or crowd upon her course.

RULE IX.—When boats are moving from their dock or berth, and other boats are liable to pass from any direction towards them, they shall give the same signal as in case of boats meeting at a bend; but immediately after clearing the berth so as to be fully in sight, they shall be governed by Rule II.

RULE X.—All barges, when towed by steamers, and navigated between sunset and sunrise, shall have their signal lights, as required by law, placed in a suitable manner on the starboard bow of the starboard barge and on the port bow of the port barge, which lights shall not be less than ten feet above the surface of the water.

340*e* RULE XI.—Steamers descending the Ohio and Mississippi Rivers between Louisville, Ky., and New Orleans, La., shall not run down any island chute, either by day or by night, except those herein or hereinafter designated, unless such chutes are the usual channel of the river.

RULE XII.—The following island chutes may be navigated by descending steamers on the Ohio River between Louisville, Ky., and Cairo, Ill., when the river shall be sufficiently high for them to do so with safety, viz: Blue River Island, Diamond Island, Golconda Island, Sister Islands, Stewart's Island, and Cumberland Island, either by day or night, and Wabash Island chute by daylight only.

RULE XIII.—The following island chutes on the Mississippi River between Cairo and New Orleans may be navigated by descending steamers during daylight, when the river shall be sufficiently high for them to do so with safety, viz: Islands Nos. 8, 34, 35, 40, 41, called Paddy's Hen, 46 or President's Island, 65, 75, or Ozark Island, 76, 93, 87, 109, or Palmyra Island, 110, or Big Black Island, 116, or Glasscock's, or 123, or Profit's Island.

340*f* RULE XIV.—The following island chutes may be navigated by descending steamers during the night when the river may be sufficiently high for them to do so with safety, viz: Islands Nos. 8, 34, 41, or Paddy's Hen, 65, 76, 93, 97, 109, or Palmyra Island, 110, or Big Black Island, 116, or Glasscock's Island.

RULE XV.—Ascending steamers are not prohibited from running any island chutes.

RULE XVI.—Signal lights for steamers under way are provided by laws as follows, the same to be carried between sunset and sunrise:

For ocean steamers and steamers carrying sail, a bright white light at the foremast head, to throw the light through ten points of the compass, on each side of the ship, viz, from right ahead to two points abaft the beam, and to be visible at least five miles. On the starboard side a green light, and on the port side a red light, each to throw the lights through ten points of the compass on their respective sides, viz, from right ahead to two points abaft the beam and to be visible at least two miles. These colored lights are to be fitted with
340*g* imboard screens, projecting at least three feet fo'ward from the light, to prevent them from being seen across the bow.

For steamers navigating waters flowing into the Gulf of Mexico, a red light on the outboard side of the port smoke-pipe, and a green light on the outboard of the starboard smoke-pipe, these lights to show both forward and aft, and also abeam on their respective sides.

For coasting steamers and those navigating bays, lakes, or other inland waters, other than ferry boats and those above provided for, the red and green side lights as prescribed for ocean steamers, and a central range of two white lights, the after light being carried at an elevation of at least fifteen feet above the light at the head of the vessel, the head light to show through twenty points of the compass, namely, from right ahead to two points abaft the beam on either side of the vessel, and the after light to show all around the horizon.

For steamers towing other vessels, the colored lights will be
340*h* the same as prescribed for ocean steamers, and two white mast lights shall also be carried vertically to distinguish them from other steamers, the white lights to show through twenty points of the compass, viz, from right ahead of two points abaft the beam on either side of the vessel; white lights shall also be placed on the extreme outside of the tow on either hand, and also on the extreme after part of the same.

RULE XVII.—A bright white light not exceeding twenty feet above the hull, shall be exhibited by all steamers when at anchor, between sunset and sunrise, in a globular lantern of eight inches diameter, so placed as to show a good light all around the horizon.

WM. BURNETT, WM. BRADFERD,
GEO. H. CHORUS, DAN'L G. TAYLOR,
CHS. L. STEPHENSEN, JNO. S. DEVENNY,
J. V. GUTHRIE, ALFRED GUTHRIE,
ASAPH S. BENIES, WM. ROGERS,
Supervising Inspectors of Steamboats.

341 WILLIAM GRAHAM, being by me first solemnly sworn to testify the truth, the whole truth, and nothing but the truth, in answer to the interrogatories-in-chief and cross-interrogatories hereto attached, deposes as follows, to wit:

Examination-in-chief. Interrogatories for defendants:

In answer to the first interrogatory, the witness says: My name is William Graham; I am fifty years old; I reside in Newport, Kentucky. I am a fireman on the river, by occupation, and have been fireman on the river for twenty years. I have been in the trades from Cincinnati to St. Louis, to New Orleans, to Nashville, to Memphis, to Pittsburg, and on the Arkansas and Missouri Rivers, too.

In answer to the second interrogatory, the witness says: I was acquainted with the steamboat Potomac, in the month of December, 1870. She was in the Cincinnati and New Orleans trade, running from the port of Cincinnati to the port of New Orleans. I couldn't tell the officers' names. Captain John N. Shunk was captain; Pres. Squires was second *the* engineer, and "Snapper" Davis was one of the strikers. The head engineer was on there; but I have forgotten his name—he is dead now. It was my first trip down on her, and I didn't get acquainted with many of the officers. I can't give the names of the rest of them.

In answer to the third interrogatory, the witness says: She had a full crew—all the mate wanted when she left here—and none of them
342 left her that I know of. I think she was fully equipped, and had all the officers required. It appeared to be a very good crew; and, so far as I know, the officers were good men. So far as I know, she was provided with everything necessary for her voyage. Everything that I could see about her captain, pilots, engineers, and mates, was all right, and I never heard anything against them at all. I couldn't tell you her age—she was a new boat. I made one or two trips on her above here to Wheeling, just before that trip to New Orleans; and, I think, she had made but one trip before I went on her. She was a new boat. She would never have stood that racket with the Lee if she hadn't been. I couldn't tell her tonnage. I never heard what her tonnage was. She was very sound and river-worthy. She had very good boilers and good engines. I have been in and cleaned her boilers myself, and they never gave me any trouble at all whilst I was on her, and I was on her all that season pretty much.

In answer to the fourth interrogatory, the witness says: I don't know much about how she handled and steered, for I didn't have anything to do with that. The pilots and engineers didn't seem to have any trouble with her; they always got along with her first rate; never had any trouble with her while I was on watch.

In answer to the fifth interrogatory, the witness says: I do know something about the collision between the Lee and Potomac—not much—on the night of the 21st of December, 1870. I was on the

343 Potomac; employed as a fireman; and had been employed on her, as a fireman, a month or more before the collision. She departed from the port of Cincinnati, on this voyage, and was bound to New Orleans.

In answer to the sixth interrogatory, the witness says: Nothing unusual had occurred on the voyage up to the time of the collision. The officers and crew behaved very well on that part of the voyage, so far as I could see. I didn't see anything wrong with any of them. So far as I could see, she was navigated and handled very well.

In answer to the seventh interrogatory, the witness says: I was on the Potomac at the time of the collision in the capacity of fireman. A short time previous to the collision, I was forward of the boilers before the fire-doors, and at the same place at the time of the collision. I was standing looking. I had just come on watch and hadn't opened the fire-doors yet, because I saw the boat coming and was looking at her. Sam Whetson, my partner, was with me. He was going off watch, and hadn't left the doors yet. He had one watch and I the other. I went on watch at 12 o'clock—that is the time they call us up—it is a few minutes later when we get down to our places. I didn't look at a watch. The watchman calls us up.

In answer to the eighth interrogatory, the witness says: I know some of the facts and circumstances preceding the collision, and of the collision itself. The Potomac rung her stopping bells when she saw the Lee a coming, and then blew her whistles—two whistles—and
344 then she rung her bells to back. I didn't hear the Lee blow any whistle at all, and I didn't hear her ring any bells. The Potomac stopped after she rung her bells and began to back. I don't know how many times she backed round. The Lee knocked our jack-staff down, and ran up on top of our bow. She smashed our rigging, some freight on the forecastle, broke a wagon up, and damaged our bow. She did a good deal of damage to our bow.

In answer to the ninth interrogatory, the witness says: As far as I could see the Potomac had her head straight down the river. I know that there is a bend in the river there, but I don't know much about the shape of the river. I could see the lights where the saw-mill was, ahead of us to the larboard, and other lights below, but it was a dark night, and being in front of the fire-doors, I couldn't see the shore. I saw lights on the shore. I don't know much about the banks—it is high on one side and low on the other; going down, it is highest on the left side. The Potomac passed a boat they said was the McGill a little time before the collision. I didn't see her name myself. The McGill was going up the river. She blew two whistles and we blew two whistles. She passed up on our starboard side. I couldn't tell how far that was above Natchez; and I couldn't tell the distance from there to the place of collision—being night, that way I couldn't tell the distance. The Potomac appeared to be going down the river, straight with the river after that till she came in sight of the Lee, as far as I could see—it was dark, and I couldn't tell—but as far as I could see, she
345 seemed to be held straight down the river when she came in sight of the Lee. I couldn't tell how far she was from the shore.

In answer to the tenth interrogatory, the witness says: I could not tell you.

In answer to the eleventh interrogatory, the witness says: Yes, sir. She sounded two whistles after coming in sight of the Lee. She sounded her two whistles because the Lee didn't sound hers, that's all the reason

I know. At that time I couldn't tell how far the Potomac was from the Lee. I heard none at all from the Lee. I could tell her whistles if she had blown any. I have heard her blow often enough to know.

In answer to the twelfth interrogatory, the witness says: Yes, sir. I heard the engine bells of the Potomac ring, after she blew her signal, and before, too. The stopping bells for both engines rung—then the two whistles—then the bells to back rung. After the stopping bells rung, it wasn't but a little bit till the whistles blowed—right off—and after the whistles it was only a little bit till the bells to back rung. It was all close together; then it was about a couple of minutes till the collision. I couldn't tell the time. I couldn't tell how far off the Lee was when the bells were rung.

In answer to the thirteenth interrogatory, the witness says: The engines of the Potomac were stopped and backed. Mr. Pres. Squires was on watch and Snapper Davis was on watch with him. They were
346 handling the engines. The engines stopped right away after the stopping bells rung, and backed when the backing bells rung. I couldn't tell how far apart the two boats were. I don't pay any attention to how far boats are off. I couldn't judge as to distance after night.

In answer to the fourteenth interrogatory, the witness says: I think the Potomac was pursuing the proper course, and kept straight on down the river until the collision, so far as I could judge. She was heading down when the blow was struck, so far as I could see. As near as I could see, the Lee was headed up the river. They appeared like they were out pretty well in the river.

In answer to the fifteenth interrogatory, the witness says: The Lee was kind o' swung out a little when she struck our bow; she struck our bow kind o' quartering. She ran up on us. Her bow up on our bow. She was higher up out of the water than we was. I couldn't tell how far they were above Natchez, or how far they were from the east bank of the river.

In answer to the sixteenth interrogatory, the witness says: I couldn't tell how they were headed after the collision. The Lee passed right on by us.

In answer to the seventeenth interrogatory, the witness says: The Potomac's headway was checked. They was backing some on her at the time. I couldn't tell whether she had sternway. She might have been a swinging, but I couldn't tell whether she was moving up the river or floating down.

347 In answer to the eighteenth interrogatory, the witness says: After the collision the Potomac was trying to get ashore. She might have blown some whistles after the collision, but I can't recollect. I heard the mate hollering for them all to get upon the hurricane-roof. They all left but me. I staid at the fire doors till she landed at the wharf-boat. As the Lee passed us I heard Capt. Shunk holler to them, and ask if they were hurt any. I didn't hear them say a word in reply.

In answer to the nineteenth interrogatory, the witness says: To all that, I don't know.

In answer to the twentieth interrogatory, the witness says: I didn't hear any reply from the Lee. If she made any, I didn't hear it. I didn't hear her blow a whistle or ring a bell; if she had blowed any I would have heard it. I don't know what course the Lee pursued, or whether she made any change, or how she approached us. The Lee didn't back at all; she kept right on, and she was going pretty fast, too.

In answer to the twenty-first interrogatory, the witness says: I am not. I wasn't acquainted with him.

In answer to the twenty-second interrogatory, the witness says: It was a very dark night. She seemed to handle very well.

348 In answer to the twenty-third interrogatory, the witness says: I don't know whether the Potomac could have avoided the collision; I don't think she could. She didn't fail in anything, or neglect anything to my knowledge. It was not attributable to any want of care or skill, or mismanagement or neglect that I know of. I know nothing about the signal lights of the Potomac.

In answer to the twenty-fourth interrogatory, the witness says: I think it was the Lee's fault, because she didn't give any signals. She might have given signals and she might have got out of the way. I know nothing about boats sheering from a bar or shore. She was light. The Lee had a light load on her; her guards up were four feet from the water, I should judge. A boat going up stream can stop quicker and sheer quicker. I don't know much about handling boats.

In answer to the twenty-fifth interrogatory, the witness says: Never heard them say anything about it, except one of the firemen of the Lee told me at New Orleans that they thought it was the Natchez. I understood afterwards that they thought it was the McGill, but he said Natchez.

In answer to the twenty-sixth interrogatory, the witness says: Yes; the Potomac was injured very much. She was broke up a good deal: her bow was broke up; a great many of her timbers in the hold

349 was broke; she was on the docks at New Orleans repairing up. I could not describe all the repairs that were put on her, and could not tell how much they cost; I have no account of them.

In answer to the twenty-seventh interrogatory, the witness says: I don't know who were her owners. I don't know about other damage; it delayed her a good deal. I don't know how much, and I don't know how much she lost from the delay. I have no account of it.

In answer to the twenty-eighth interrogatory, the witness says: I have told all about it so far as I can now remember.

Cross-interrogatories:

In answer to the cross-interrogatories of the libellant, hereto attached, the witness deposes as follows:

In answer to the first cross-interrogatory, the witness says: But once; in last March I was there.

In answer to the second cross-interrogatory, the witness says: On the Potomac and the John Kilgour. I haven't been on the river since last March. Capt. Batchelor was captain of the Potomac when I was on her. I have forgotten who was captain of the John Kilgour. I can't remember his name.

In answer to the third cross-interrogatory, the witness says: To all that, I can't tell.

350 In answer to the fourth cross-interrogatory, the witness says: The Lee didn't whistle at all as I heard; after I saw the lights of the Lee it was long enough for the Lee to have blowed her whistle before I heard the Potomac's whistle. I couldn't say how long a time it was; the Potomac blew two blasts; the Lee not any that I heard.

In answer to the fifth cross-interrogatory, the witness says: To all that, I don't know.

In answer to the sixth cross-interrogatory, the witness says: I was before the fire doors. I was on watch at the fire, ready to fire. I

didn't do anything in particular. I couldn't tell how far apart the two boats were when I heard the Potomac's whistle. I didn't hear the Lee whistle.

In answer to the seventh cross-interrogatory, the witness says: I couldn't tell how many minutes it was, or how long. I had nothing to mark the time; the bows came in contact; her bow ran over ours.

In answer to the eighth cross-interrogatory, the witness says: As far as I could tell right down stream; the Lee was pointed up, as far as I could see; from where I was I couldn't tell which way she was pointed; she kept coming on toward us. I don't know much about how the boats were pointed, with reference to the shore.

351 In answer to the ninth cross-interrogatory, the witness says: After her whistles, I heard her bells to back; they struck on the alarm first to get ready to back, and then rung her backing bells; that's all I heard before the collision, after she whistled; pretty soon after she whistled, I heard her engine bells—I can't give the precise time; I did not hear the engine bells of the Lee; I don't know how far the boats were apart when I heard the engine bells of the Potomac after I heard her whistle.

In answer to the tenth cross-interrogatory, the witness says: I was before the fire-doors, on the larboard side. I could not see the lights of the Natchez wharf-boat from where I stood.

In answer to the eleventh cross-interrogatory, the witness says: She sunk on the bar, they say. She was laying in the river, the next morning. I didn't see her until the next morning, and I didn't go up there. I *I* saw her from the wharf-boat. I couldn't say how far it was from the place of collision.

In answer to the twelfth cross-interrogatory, the witness says: To all that, I don't know.

In answer to the thirteenth cross-interrogatory, the witness says: To all that, I don't know and couldn't tell.

352 In answer to the fourteenth cross-interrogatory, the witness says: No, sir: I wasn't sworn there at all. I hav'n't seen a copy of any testimony taken there, or heard it read.

In answer to the fifteenth cross-interrogatory, the witnes' says: The fireman came aboard to see *now* much we were damaged, and just said that they thought it was the Natchez.

In answer to the sixteenth cross-interrogatory, the witness says: I have tried to do that, and hav'n't anything more.

his
WILLIAM + GRAHAM.
mark.

Subscribed in my presence, and sworn to before me this 28th day of September, 1872.

R. S. FULTON,
U. S. Com'r, S. D. O.

WILLIAM J. ANSHUTZ, being by me first solemnly sworn to testify the truth, and nothing but the truth, in answer to the interrogatories-in-chief and cross-interrogatories hereto attached, deposes as follows, to wit, in answer to

Interrogatories-in-chief:

In answer to the first interrogatory, the witness says: My name is W. J. Anshutz; my age is sixty (60); I reside at Cincinnati, Ohio; my occupation is that of pilot on the river from Cincinnati to New

353 Orleans. I have been employed on the river somewhere between twenty-five and thirty years as pilot in the Cincinnati and New Orleans trade.

In answer to the second interrogatory, the witness says: I was acquainted with the steamboat Potomac in the month of December, 1870; she was then on her way to New Orleans from Cincinnati, running from the port of Cincinnati to New Orleans. Captain Shunk was master, Capt. Devinney was clerk, George Maloney and Eugene Y. Handlan were pilots, Pres. Squires was one of the engineers, and Mr. Hall was the other; Perry Holland was mate and William Lynch was second mate; one of the strikers was a son of Capt. Rusk, and the other was John Davis.

In answer to the third interrogatory, the witness says: I think she was properly equipped for the trade she was running in; I believe her officers were all the right kind of men to fill their offices in that trade, and she had a full crew. Her master, pilots, engineers, and mates had good standing; they had the license required by law and were good men at that time. I don't think I can state her age exactly. I saw her first at the landing, Moundsville, below Wheeling, in the preceding August, and that was her first trip. This was her first trip to New Orleans; she was a new boat. I believe her tonnage was between seven hundred and eight hundred tons; I can't state it exactly. She was staunch and river-worthy. I can't give you the size of her machinery; it was No. 1 machinery, I believe.

354 In answer to the fourth interrogatory, the witness says: She handled and steered very well for as heavily loaded boat as she was at that time.

In answer to the fifth interrogatory, the witness says: Yes, sir. I seen part of it; I was on the Potomac at the time; I was a passenger, going down to look at the river—that was my business. I was not employed on her. She went from Cincinnati and was bound to New Orleans. I can't give the date she left Cincinnati without my memoranda. I went on her at Portland; she left Cincinnati the day before I did, and I overtook her there.

In answer to the sixth interrogatory, the witness says: I don't know of anything unusual. The crew were all doing their proper duty, and the officers were too; they were all sober, steady men. I saw nothing out of the way with any of them. She was navigated well and handled very well on the way.

In answer to the seventh interrogatory, the witness says: I was on board the Potomac at the time of the collision, as a passenger. I was in the pilot-house all that night, up to within about five minutes of the collision. I had went into my room to lay down—in the pilot's room in the texas part of the boat. As I was coming down out of the pilot-house, we met a boat, which proved to be the McGill, afterwards. The proper signals passed, and the boats passed each other. I had just got in bed, perhaps a minute or two, when I heard Captain Shunk sing out twice, in succession, "Back that boat!" I supposed, of course,

355 there was danger. I jumped up, and put on my boots and coat. Before I heard Captain Shunk sing out, I heard our boat sound two whistles. I come out of the texas door, on the starboard side of the texas front, just in time to see the boats come together. I was standing in the texas door, having hold of the door, at the time of the collision—looking at it. I was standing there alone. It was midnight, and everybody, but the men on watch, pretty much was abed.

In answer to the eighth interrogatory, the witness says: I do know

some of the facts and circumstances preceding the collision and of the collision itself. As I have just said, I was in the pilot-house all night, all the time, until within about five minutes of the collision. I went down out of the pilot-house to bed after twelve o'clock; it was near about half-past twelve, I think. I had just laid down when I heard the Potomac's two whistles. Very soon after the whistles I heard Capt. Shunk holler out to "Back that boat," and just before our whistles, I heard the Potomac's stopping bells ring. The whistles and the stopping bells were very close together. She rang her bells to stop; then I heard her whistles; then I heard her backing bells and I heard her backing. How many revolutions I can't state. She was backing, I think, before I heard Captain Shunk holler out to "Back that boat." I got up and put on my boots and coat, and then went out to see the shape of the boats. I opened the door, and the first thing I looked at was the shape of our boat. She was pointing rather in the bend, the proper shape of a boat running the bend. She was backing, and her head was pointed
356 a little above the Natchez wharf-boat. She was pretty nearly straight up and down the river. I heard no signal whistle at all from the Lee, and did not hear her engine bells. We were going down the bend and the Lee was coming up around the bar, I suppose, for that was her proper place. The Lee seemed to have taken a sudden turn across our bow, and they struck in this way. The Potomac's stem run under the Lee's larboard guard, about the gangway. It shoved the Potomac round, and shoved her toward the left-hand bank; it pointed her toward the bank and shoved her pretty close to the bank. The Lee and the Potomac, after they struck, came broadside together, and were both pointed toward the bank. The force of the collision swung our boat around until she headed toward the shore, and pretty quick too.

In answer to the ninth interrogatory, the witness says: Well, sir, when I went out of the pilot-house she was running down the bend shore, shaping the bend. The upper portion of the bend is rather straight for a mile. About a mile and a half above Natchez it begins to make more of a curve to the right. The collision occurred just about where the bend begins to curve to the right. For a mile above it is pretty straight, and for a mile and a half below it continues this curve down to the wharf-boat. The bank along the bend, in places, is a little bluff; at the place of collision it is pretty bluff. Below there, there are mud points come out in the water. On the opposite side it is low—a low sand-bar. She passed the McGill as I was coming out of the pilot-house, perhaps five minutes before the collision. They blowed
357 the proper signals, two whistles each, and passed. The ascending boat blew two whistles first, and the Potomac answered with two. The *the* Potomac passed down the bend side and the other boat up on the other. That was probably three miles above Natchez—between three or four—somewhere along there. It was about a mile and a half, I think, or thereabouts, above the point of collision. She met the McGill just about at the head of the Natchez bend, and when I went down to bed she was shaping the bend. I did not see the Lee when I went down, and I suppose I was in bed when the Lee came in sight. I couldn't tell what course the Potomac pursued from the time I went to bed until I got up again. I suppose, of course, she went straight down the left hand bend; there is where she was when I went down, and there she was when I came out again, and it was the proper course for her to take. As to the rest of the question I can say nothing, for I was not up, though awake. When I went down she was in her proper place in the bend, where boats usually run. When I came out she was as

close to the bend as she had any business to be; a little closer to the bend than I generally run, unless it is to give room to a boat, which may have been the case with the Potomac at that time, to make room for the Lee on the opposite side. She (the Potomac) was not out of her place at all. The channel there is wide and there is plenty of room.

In answer to the tenth interrogatory, the witness says: No; I do not.

358 In answer to the eleventh interrogatory, the witness says: The Potomac sounded two whistles for the bend side. She sounded, I suppose, to let the Lee know that we were there, and wanted to go down the bend side. I don't know how far she was from the Lee at that time. I was not up. I heard no signal or signals from the Lee.

In answer to the twelfth interrogatory, the witness says: Her backing bells rang after she blew her signals. I now think she was backing before she blew her whistles. I am not certain about that. It was all pretty close together. As I have said before, she rang her stopping bells and then blew her whistles. Whether she rang her backing bells before she sounded her whistles or after, I won't be certain about now. As to the distance we were from the Lee at that time I can't say, for I was not up.

In answer to the thirteenth interrogatory, the witness says: They were stopped and were backed; I don't know which of the engineers was on watch; I can't give the time at which they stopped or backed, or how far the boats were apart at either time; the Potomac was backing when I went out.

In answer to the fourteenth interrogatory, the witness says: As to what course the Potomac pursued while I was in bed, I don't know; but when I came out the Potomac was in her proper course, shaping the bend, and at the time the blow was struck she was headed down the bend, I think a little above the Natchez wharf-boat; the Lee was headed very nearly straight across to the bank, slightly quartering up-stream.

359 In answer to the fifteenth interrogatory the witness says: The Potomac was shaping the bend and the Lee was nearly straight across the river, slightly quartering up stream; the stem of the Potomac and the larboard quarter of the Lee first came in contact; they were not exceeding twenty yards from the east bank of the river, I think—from fifteen to twenty yards—and I suppose probably a mile and a half above the Natchez wharf-boat, thereabouts.

In answer to the sixteenth interrogatory the witness says: She was headed towards the east bank right after the collision, and after the Lee left us right up-stream; the collision shoved us right around; the two boats came together broadside after the collision and swung round together; after the Lee left us, I paid no attention to her; she was headed toward the shore at the same time we were; she was going in, and shoved us in too.

In answer to the seventeenth interrogatory the witness says: I think the Potomac's headway had been entirely checked before the collision; she had been backing; I couldn't tell whether she had stern-way or not; I had just got out of bed; there is a pretty strong current there, and with a heavy boat it would take her some time to check herself up.

In answer to the eighteenth interrogatory the witness says: She sounded signals of distress for the Lee to come to her asistance,

360 but the Lee gave no answer; thinking she was in a sinking condition, the Potomac ran over to the bar; they made an examina-

tion and found that she was taking water, but not very fast; she afterwards went over to the wharf-boat and put off some freight she had for Natchez, and also put off some freight to light her up on account of the leak; she put a tarpaulin over her bow and proceeded on to New Orleans; the signals of distress she sounded after the collision was four short successive whistles—I think it was four or five he blowed, I am not certain now which; the Lee made no reply.

In answer to the nineteenth interrogatory the witness says: I know nothing about any of that at all; I wasn't out until just before the collision.

In answer to the twentieth interrogatory the witness says: The Lee made no reply that I heard. I can't state the course the Lee pursued after the Potomac sounded her signal or whether she made any change in her course, or how she approached the Potomac, except from the shape in which they came together. I can't say whether the Lee rang her backing bells—I did not hear them. I can't tell whether the Lee was backing when she struck the Potomac—I know she came into us pretty rapidly.

In answer to the twenty-first interrogatory the witness says: Yes, sir; I do. I had known him for years before, and know that he knows the river, and is a good pilot; he knows his business. He was in his proper place all the way down that night, for I was in the pilot-
361 house myself up to within five minutes of the collision. He knew where he was in the river, exactly, all the time.

In answer to the twenty-second interrogatory the witness says: The night was dark, but not unusually dark. It was what we call a fair night to run. The Potomac handled very well that night.

In answer to the twenty-third interrogatory the witness says: The Potomac was in her proper place, and I don't see how she could have avoided the collision. I don't know of any mismanagement or neglect or any want of care or skill on the part of any of the officers or crew of the Potomac. The Potomac's signal lights were burning and in their proper places.

In answer to the twenty-fourth interrogatory the witness says: I do say it was the fault of the Lee. It was her place to go up around the bar, and her place to give the proper signals, which she failed to do. She was the ascending boat, and had very little load on her, and could have got out of the road easily enough if she had been in her proper place. She had the best whistles on the river—considered so—and I knew them very well; I have heard them often enough. If she had blown her whistles that night after leaving the wharf-boat before the collision, I would have heard them: if she had been a mile or two miles below I would have heard them. Large boats in running full speed and close to the bar, are apt to sheer suddenly from it. If the Lee had blown her whistles at the proper time, or had blown them at all,
362 there would have been no trouble. She had but very little load on her, if any at all, and her guards were very high up. I suppose her guards were up out of water six feet or more, at the part at which we came together. It depends upon how the two boats are loaded; if they are equally loaded the up-stream boat has much the best chance, she always does the manœuvering when meeting a down-stream boat, because it is much easier to manœuvre and handle an up-stream boat. The down-stream boat has the current with her and hasn't the time to manœuvre that the up-stream boat has. If the down-stream boat is loaded heavy and the up-stream boat is light the difference is so much the greater in favor of the up-stream boat's handling.

signal. The Potomac was pointed down the bend, and the Lee nearly square across, quartering slightly up-stream at the moment of collision, toward the bend shore.

In answer to the ninth cross-interrogatory the witness says: I heard the stopping bells and heard the backing bells, but am not positive whether the backing bells were before or after the whistles. The stopping bells were before the whistles. I did not hear the engine bells of the Lee or the whistle either. I couldn't tell how far the boats were apart when I heard the Potomac's engine bells, for I was in bed.

In answer to the tenth cross-interrogatory the witness says: I was in the texas door, as I have stated, on the starboard side of the Potomac. The lights of the wharf-boat were to the right of the jackstaff of the Potomac from where I stood, and they appeared to the right of the head of our boat.

In answer to the eleventh cross-interrogatory the witness says: She ran over on the bar after we came together and sunk there. I couldn't tell whether it was a little above or below, or right opposite the point of collision.

366 In answer to the twelfth cross-interrogatory the witness says: It was some considerable distance above Brown's garden and Brown's saw-mill, but I can't give the distance; I didn't notice that particular. I could not say how far above the saw-mill and garden the Lee sunk; a considerable distance above them both, I think.

In answer to the thirteenth cross-interrogatory the witness says: In the neighborhood of a mile and a half; it might be a little more or less. The Lee sunk very close to the point of collision. She might have gone up a very little or down a little, but it was close by.

In answer to the fourteenth cross-interrogatory the witness says: I did. To the best of my knowledge it was true and correct, so far as I was asked. I don't think it was read over to me after being written down, and I have not seen a copy of any of it since. I never heard it read. I don't think he read it to me as you are doing here.

In answer to the fifteenth cross-interrogatory the witness says: I heard no conversation at all inquired about.

In answer to the sixteenth cross-interrogatory the witness says: I don't think of anything more. Under the pilot rules I understand it to be the duty of the pilot of the ascending boat to blow first. We always wait to hear the up-stream boat's signal before we blow; that
367 is the practice of pilots under that rule. If they don't blow we sometimes blow when we get pretty near together, to remind them of their duty. I understand Remelin was suspended here for blowing first in the case of the collision between the America and the United States, and he was on the down-stream boat. The inspectors here told me when I got my license in no instance to blow first when I was on a descending boat, but wait for the signal of the ascending boat. Mr. Flanders, inspector at New Orleans, when I took out my license, told me I must blow first, and that if I didn't do so after I got below the mouth of the Arkansas, within his jurisdiction, he would take my license away from me. I do not so understand the rules; I don't so read them.

W. J. ANSHUTZ.

Subscribed in my presence and sworn to before me this 30th day of September, A. D. 1872.

R. S. FULTON, *U. S. Com'r, S. D. O.*

JAMES G. HUGHES, being by me first solemnly sworn to testify the

In answer to the twenty-fifth interrogatory the witness says: None at all; I never talked with any of them about it, and never heard them talk about it.

In answer to the twenty-sixth interrogatory the witness says: She was; her stem was knocked off and her jack-staff and the fixtures around the bottom of it was knocked off and a considerable part of the bulwarks around front; the main corner post that the cabin floor starts from, forward, was broken off; some of the knees were knocked off; she had to go on the docks at Algiers and lay there, I think, about two weeks repairing; I don't know what her repairs cost, and have no account of it; the repairs were made when she got to New Orleans and they got her freight out.

363 In answer to the twenty-seventh interrogatory the witness says: Capt. Fink, who was on board at the time, I understood, was an owner, and I understood that Capt. Jones and Capt. Shunk were owners, and I believe Capt. Pearce. I don't know it personally, but I was told that the persons I have named were owners. They sustained some damage by delay, of course. She lost about two weeks' time—she lost a trip, I suppose. I know she was about that time on the docks; but I don't know how much money she lost by delay. They are under expense all the time, and time is money to a steamboat.

In answer to the twenty-eighth interrogatory the witness says: Well, I can't state anything more that I now think of, only that she lost a very good opening for a trip.

In answer to cross-interrogatories of libellant the witness testifies as follows:

In answer to the first cross-interrogatory the witness says: I have not been down there at all since the 1st of last January.

In answer to the second cross-interrogatory the witness says: I have not been on any at all since that time; I have been in the country.

364 In answer to the third cross-interrogatory the witness says: I didn't see her lights until she came right at us. It was about a mile and a half above the wharf-boat; may be a little more or less. The Potomac was on the bend side at that time. The Lee was right at our bow at that time.

In answer to the fourth cross-interrogatory the witness says: I didn't hear the Lee's whistle. I heard the Potomac's whistle before I got up out of bed and before I saw the lights of the Lee. The Potomac blew two blasts, and I did not hear the Lee blow any.

In answer to the fifth cross-interrogatory the witness says: I don't know how far from the wharf-boat our boat was when she whistled. She was on the bend side of the river at that time, I think. I didn't see the Lee, and don't know about her.

In answer to the sixth cross-interrogatory the witness says: In bed, though I was not asleep. I laid still until I heard the captain sing out to "Back that boat" twice in succession. Then I got up and put on my boots and coat as quick as possible. I went to the texas door on the starboard front and opened it and looked out. Directly after I opened the door I heard the crash.

365 In answer to the seventh cross-interrogatory the witness says: It was a very short time—about two minutes—not over that. The larboard quarter of the Lee and the stem of the Potomac came in contact.

In answer to the eighth cross-interrogatory the witness says: I was in bed, and don't know how the boats were pointed at the time of the

truth, the whole truth, and nothing but the truth, in answer to the interrogatories-in-chief and cross-interrogatories hereunto attached, testifies as follows, to wit:

Interrogatories-in-chief:

In answer to the first interrogatory, the witness says: My name is James G. Hughes; I am fifty years old past; I reside in Ludlow, Kentucky. I am engaged in buying, selling, and shipping horses and mules.

368 I have been on the river as bar-keeper and as assistant clerk two years, in 1851 and 1852, and since that time I have been in the horse and mule trade.

In answer to the second interrogatory, the witness says: I was acquainted with the Potomac in the month of December, 1870; she was engaged in the Cincinnati and New Orleans trade, running from the port of Cincinnati to the port of New Orleans; Captain Shunk was the captain, but I have forgotten the names of the other officers. I remember a man by the name of Devinney was clerk.

In answer to the third interrogatory, the witness says: I thought she was just about as good a boat as I ever travelled on; she seemed to be well officered, manned and equipped; she was managed well and pleased me as well as any boat I was ever on. The master, pilots, engineers and mates had the reputation of being No. 1 officers; I wouldn't want a better boat than she was up to the time of the accident; she was a new boat; it was her first trip south. She ran a little while in the mail trade here; if she hadn't been new, she would have went down; I don't know what her tonnage would be—I never asked, and don't know anything about it. Oh yes, she was staunch and river-worthy—a good, strong, new boat—as good as they ever make them. Her machinery looked well to me; I was down there amongst her machinery a good deal; as far as I could judge, I would call her a first-class boat in every respect; she was a nice running boat.

369 In answer to the fourth interrogatory, the witness says: All I know was her reputation with pilots; I was in the pilot house frequently. Her pilots said she handled and steered well.

In answer to the fifth interrogatory, the witness says: Yes, sir; I know all about that. I was up on watch with my stock, I was on the Potomac; I was on her as a passenger with stock; I shipped some horses and mules on her at Cincinnati on that trip; she departed from the port of Cincinnati along about the 10th of December. I couldn't just say the exact day—she was bound to New Orleans.

In answer to the seventh interrogatory, the witness says: Nothing unusual happened until the collision of the Lee. The officers and crew of the Potomac behaved extra good, I think, as far as I am capable of judging; they navigated her and handled her well.

In answer to the seventh interrogatory, the witness says: I was, as a passenger. I was sitting right forward, in the social hall, in the forward part of the cabin. I was sitting by the fire. I was on watch; it was between 12 and 1 o'clock at night. I had a man with me and we took alternate watches. I sat up the fore part of the night, and was on watch at the time of collision. There was nobody there sitting with me. I was sitting waiting to pass Natchez, when I was going to call my man up. The barkeeper and some other parties were near the stove playing euchre.

In answer to the eighth interrogatory, the witness says: I do know some of the facts and circumstances. I heard the Potomac ring her stopping bells, and I got up and went to the hall door, and

370 pulled the screen apart, on the front of the cabin and looked out. Just as I got to the door I heard the Potomac's whistle. I opened the door and went out, and pulled the screen apart, and saw the lights at Natchez, and saw a boat coming. I then went back to the fire and sat down. I had not been there more than two minutes when the two boats came together. We rang our backing bells before the boats struck. We were about one hundred and fifty yards from the Mississppi shore, and were pointed right straight down the shore. The Lee was coming up on the Louisiana side of the river, and Captain Cannon told Captain Shunk, in my presence, that the Lee took a sheer on his pilot, and ran away from him; that the pilot told him that she was so light he couldn't hold her. After they struck, I ran out on the roof, through the side door, and climbed up over the stanchion. I wanted to get as high as I could, and didn't wait for any steps. When I got up there, the two boats were lying right side by side, and pointed toward the Mississippi shore. The Lee ran across our bows. I know the Potomac was in her proper place, and running right, for I have boated down there. She was on the right side of the river—in her proper place—where she belonged.

In answer to the ninth interrogatory, the witness says: I don't know what course she was pursuing before or at the time she came in sight of the Lee. It was a very cold night, and I was sitting by the fire. There is a bar comes out from Natchez for about a mile. The channel is very deep there. There is plenty of room for boats to pass.

371 There is a bend in the river there—they came together in the bend—at the turn of the river. The bank is pretty steep on the Mississippi side, and it is flat on the Louisiana side—it is low country there. I don't know anything about passing another boat before the collision—I didn't go out. I don't know how the Potomac was held on the river, or how far from the shore when she came in sight of the Lee.

In answer to the tenth interrogatory, the witness says: I know nothing about that?

In answer to the eleventh interrogatory, the witness says: I know the Potomac blowed two whistles. I thought she was blowing to land till I went out. I heard her ringing her bells, and I didn't know but she was at Natchez and going to land. When I saw it was another boat coming I went back. She blowed twice for the larboard. I couldn't tell how far she was from the Lee when she sounded her whistles. I did not hear any signal or signals from the Lee.

In answer to the twelfth interrogatory, the witness says: I heard the engine bells of the Potomac ring, as I have stated; she blew her whistles and rung her backing bells about the same time, very close together; I don't know how far the Lee was off at the time.

In answer to the thirteenth interrogatory, the witness says: She backed before the collision, and was backing at the time; if we had been under headway when they struck we "would have gone to

372 Halifax;" I don't know who was handling the engines; I heard the bells ring some three minutes before the collision; can't state when they stopped and backed; I wasn't down there.

In answer to the fourteenth interrogatory, the witness says: The Potomac was in her proper place, for I was out there a moment after her signal, and I know how they run there; she was in the right position; I don't know whether she made any change in her course; just before she struck, when I pulled the screen open, the Potomac was headed right down the bend, but I don't know how at the time she struck, for I wasn't out.

In answer to the fifteenth interrogatory, the witness says: I don't know anything about it; it was about a *a* mile above Natchez where they collided.

In answer to the sixteenth interrogatory, the witness says: We headed up-stream and backed down on the bar and grounded; the force of the collision throwed us around, and we backed on to the bar to keep from sinking; the Lee was headed up; she backed down on the bar in shallow water and sunk.

In answer to the seventeenth interrogatory the witness says: Her headway was checked before the collision; she was backing, but there is a swift current there, and I don't think she had sternway.

In answer to the eighteenth interrogatory, the witness says: She was blowing and ringing her bells; I can't state what she was doing;
373 I was looking out for myself; I knew the water was deep there, and it was a cold night; I was pretty badly scared, and looking for some place to get to; I didn't hear any reply to her signals.

In answer to the nineteenth interrogatory, the witness says: I couldn't answer that, except when I looked out of the screen she was to our right on the Louisiana side.

In answer to the twentieth interrogatory, the witness says: I heard no reply from the Lee; when I looked out through the screen she seemed to be in her proper place coming up the Louisiana side of the river; after I got up on the hurricane roof and saw her again she was pointed across the river; as to the balance of the question, I can't answer; I heard no bells from the Lee.

In answer to the twenty-first interrogatory, the witness says: I don't know, except that he had the reputation of being a good pilot; that's all I know about it.

In answer to the twenty-second interrogatory the witness says: It was a cold night, and clear enough—a fair night to run. I don't know anything about how she handled—so far as I know, well—we got along all right until this collision.

In answer to the twenty-third interrogatory, the witness says:
374 I think she did her part in every respect; her signal lights were burning when we landed at Natchez. I didn't notice before; I didn't notice anything out of the way on our boat.

In answer to the twenty-fourth interrogatory, the witness says: I don't know by whose fault it was caused; think the Lee's fault caused it. She was light, and an up-stream boat, and more easily controlled than the loaded down-stream boat. They could have easily stopped and backed, or taken either side—she had nothing in her, and could run any place. I think large boats are apt to sheer suddenly from a bar shore or shoal shore. They go for deep water. The Lee had nothing in her hold; she was light and way up out of the water; she must have been eight or nine feet out of the water at the bow. A boat coming up is easiest handled and manœuvered, for you have the current in your favor all the time, and can control her.

In answer to the twenty-fifth interrogatory, the witness says: Capt. Cannon remarked to Capt. Shunk, at Natchez, on board of our boat, in my presence, that his pilot thought we were the McGill, and said that his boat took a sheer on his pilot; that he couldn't hold her where he wanted to; that he himself was asleep at the time the collision occurred. There were several others present at the time, but I don't know who they were. That was the next morning at Natchez. Capt. Cannon remarked that he couldn't say whose fault it was.

375 In answer to the twenty-sixth interrogatory, the witness says:

The Potomac was injured by this collision, and seriously too. It sprung her stem, and she took water; it knocked her jack-staff and bow off, and did other damage. They put her on the docks, and she was there getting repairs a couple of weeks. I saw her after she was repaired—went aboard of her—she had a new bow, stem, and jack-staff, and so on. I don't know what they cost, and have no account of the cost. The repairs were made at New Orleans, after she arrived there.

In answer to the twenty-seventh interrogatory, the witness says: I do not know who her owners were of my own personal knowledge. They were damaged by delay, but I don't know how much. We were detained at Natchez about 12 hours, and had to go down from there slow. Then the boat was about two weeks on the docks; I don't know how much she lost by delay, and have no account of that.

In answer to the twenty-eighth interrogatory, the witness says: I have told you all I know, I believe.

Cross-interrogatories:

In answer to the first cross-interrogatory, the witness says: Not at all.

In answer to the second cross-interrogatory, the witness says: None.

376 In answer to the third cross-interrogatory, the witness says: I think the Potomac was about a mile above Natchez wharf-boat, and the Lee about half a mile, when I first saw the lights of the Lee; the Lee was then on the Louisiana side.

In answer to the fourth cross-interrogatory, the witness says: Didn't hear the Lee whistle at all; heard Potomac's whistle before I saw the lights of the Lee—while I was opening the door to look out through the screen; the Potomac blew two blasts; I didn't hear the other boat blow at all.

In answer to the fifth cross-interrogatory, the witness says: About a mile—may be more, may be less, I couldn't tell; she was on the Mississippi side at that time, and the Lee on the Louisiana side.

In answer to the sixth cross-interrogatory, the witness says: When I was going to the screen. I went and looked out through the screen; I then went back to the stove and sat down; think they were about half a mile apart when I heard the Potomac's whistle.

In answer to the seventh cross-interrogatory, the witness says: About a couple of minutes the bows came in contact.

In answer to the eighth cross-interrogatory, the witness says:

377 Straight down stream; I don't know how the Lee was pointed at that time—when I saw her she was coming up—that's all I know; at the time they struck I wasn't out, and don't know how they were pointed.

In answer to the ninth cross-interrogatory, the witness says: I heard bells ring to back; it was right off after the whistle—close together; I did not hear the engine bells of the Lee; don't know how far they were apart when I heard Potomac's engine bells—about half a mile or little less, I suppose; it is difficult to tell distances on water after night.

In answer to the tenth cross-interrogatory, the witness says: I was sitting at the stove in the social hall; I had not anticipated danger, and had gone back and sat down there; from where I was, couldn't see any lights outside; the doors and the screen were in the way.

In answer to the eleventh cross-interrogatory, the witness says: She sank on the bar near the Louisiana shore, a short distance from where

the boats collided—about opposite the place; she got over in shallow water and sunk.

In answer to the twelfth cross-interrogatory, the witness says: I don't know; I didn't notice.

378 In answer to the thirteenth cross-interrogatory, the witness says: I should think about a mile above Natchez—above the Natchez wharf-boat.

In answer to the fourteenth cross-interrogatory, the witness says: I did not, and have not seen any of the testimony, or heard it read.

In answer to the fifteenth cross-interrogatory, the witness says: I don't know how it arose: Capt. Cannon came aboard our boat; he and Shunk were talking there, and I went up and heard what he said.

In answer to the sixteenth cross-interrogatory, the witness says: I have stated all I know that I can remember.

J. G. HUGHES.

Subscribed in my presence, and sworn to before me, this 2d day of October, A. D. 1872.

R. S. FULTON,
U. S. Com'r, S. D. O.

PERRY HOLLAND, being first solemnly sworn to testify the truth, the whole truth, and nothing but the truth, in answer to the interrogatories-in-chief and cross-interrogatories hereto attached, deposes as follows, to wit:

Interrogatories-in-chief:

In answer to the first interrogatory-in-chief, the witness says: Perry Holland is my name. I am forty-seven years old past. I reside

379 in Cincinnati, Ohio. I am mate on the river by occupation, and have been at that about twenty years. I have run from here to New Orleans, to Memphis, to St. Louis, up the Arkansas River, to Nashville, and in nearly all the Western trades, in the same capacity.

In answer to the second interrogatory, the witness says: I was acquainted with her. She was running in the Cincinnati and New Orleans trade at that time. It was her first trip down. She was nearly a new boat. She was running from the port of Cincinnati to the port of New Orleans. Capt., John N. Shunk; pilots, George Maloney and Eugene Y. Handlin; engineers, Mr. Hall, who is now dead—we put him off at Evansville, on her way up—and Presley Squires; strikers, Mahlon Rusk and a young fellow by the nickname of "Snapper"; mates, Perry Holland and William Lynch; clerks, Mr. Devinney and Mr. Robinson, and another second clerk whose name I have forgotten, were the officers of the boat at that time.

In answer to the third interrogatory, the witness says: I think she was officered, manned, and equipped as well as any boat I was ever on. She had her full complement of officers, a full crew and a good crew, and she had all the equipments that were necessary for that trade. There was nothing wanting. I don't know anything against any of her officers, and they all had a good reputation. My partner didn't drink anything; I know I didn't; and I don't think Capt. Shunk ever did in his life. The engineers were both sober, steady men; never saw either of them take a drink of anything—that

380 is, any spirituous drink. The pilots were sober, steady men, and I never saw either of them drink or in liquor. That was her first trip to New Orleans, and she had been in the mail trade a little before that. She was a new boat. I don't remember her precise age. I sup-

pose her tonnage was about 800 tons; I only guess at that; I suppose somewheres near that. She was a stout and river-worthy boat. She didn't leak any, and was sound all over. I don't know of anything wrong about her machinery, and never heard of anything wrong about it before the collision or since. It all seemed to me to be in good order.

In answer to the fourth interrogatory, the witness says: I never heard any complaints about her handling and steering. She appeared to me to handle and steer well, and I never heard anything to the contrary.

In answer to the fifth interrogatory, the witness says: I do know something about the collision. I was on the Potomac at the time as mate. I had just went on her that trip at Cincinnati, and had been on her in that capacity about ten or twelve days, I suppose. We left Cincinnati on that trip and was bound for New Orleans. I have a little book at home that gives the day we left, but I don't remember now without my memorandum.

In answer to the sixth interrogatory, the witness says: There was nothing wrong that I know of; we were going on very well. All of my crew behaved well, and I didn't see anything out of the way
381 with any of her officers. So far as I know she was navigated and handled well on the way.

In answer to the seventh interrogatory, the witness says: Yes, sir; as first mate. I had just got up a little while before that, and had come down stairs out of the texas, and had gone to the stove, in the forward part of the hall, and spoke to Captain Robinson. I hadn't been there more than about a minute, I reckon, until the bell rung to stop her. I then went out on the starboard guard. That was the first I saw of the Lee. I then heard the Potomac blow her whistle, and after that ring her bells to get ready to back. The Lee looked to me like she was coming right "head on," about opposite our boilers. Then I started off the guard and went up to the roof, and was there when she struck us. I then went down below, on to the lower decks, and got on the lower decks about the time the Lee was backing away from us. I then went down in the hold. I was not on watch. I had just got up for to get ready for Natchez. We had freight to put off at that port, and I got up to see that everything was right.

In answer to the eighth interrogatory the witness says: I do. I have told you about all I know in answer to the last question, unless there are some particular things that I don't happen to think of now.

In answer to the ninth interrogatory, the witness says: I think we were laying pretty straight up and down the river when I was coming down stairs first—that is, before I saw the Lee. There is a bend
382 there, and we were shaping the bend. When I first got up I saw the lights of Natchez across the point. As near as I can describe the shape of the river, there is a bend there above Natchez, leaving a bar on the right-hand side of the river going down. There is a tolerably big bank at and above Natchez, on the Natchez side, and it is lower on the other. I don't pay much attention to the shape of the river, and can't describe it as a pilot could do; it isn't a part of my business. I didn't see the boat that the Potomac passed; I think it was before I got up; I heard them talking about it, but I didn't see it myself. As to the rest of the question, I can't answer.

In answer to the tenth interrogatory, the witness says: No, sir; I do not.

In answer to the eleventh interrogatory, the witness says: Yes, sir; I heard her blow two whistles. I suppose she sounded to get an an-

swer from the other boat as to which side she was going to take. I can't tell the distance the Lee was away at that time; I can't tell the distance on a river after night; it is very hard to do. As near as I can guess at it, seven hundred or eight hundred yards. I did not hear any signal or signals from the Lee.

In answer to the twelfth interrogatory, the witness says: After she whistled she rung her engine bells to back; it wasn't but a little bit after the whistles; I can't tell the time. I couldn't tell how far the Lee was away; not very far.

In answer to the thirteenth interrogatory, the witness says: I heard the bells ring to stop, and I think they were stopped; I think
383 the second engineer, Mr. Squires, was on watch, and one of the strikers. I think the engines were backed; I couldn't say when they were stopped or backed, or how far apart the two boats were at either time.

In answer to the fourteenth interrogatory the witness says: I don't know, but think she was. She was pursuing her proper course when I came down stairs. She made no change in her course that I noticed. I can't hardly tell how the Potomac was headed at the time they struck. I think as she was before, down stream with the bend. The Lee, I can't tell how she was headed at the time they struck. Before that she appeared to be coming toward us "head on," but I couldn't tell what shape she was in at the time they struck. I was looking at the boats, but not at their shape or at the shores. A man to tell the shape of a boat must look at her bow and her stern, and the shore too. There wasn't much time for that, that night.

In answer to the fifteenth interrogatory the witness says: I can't give the shape of the boats. The Lee struck us on our starboard forward quarter, near to the stem, about opposite the capstan. The Lee struck us with her forward larboard quarter, I think. I didn't go aboard of her afterwards. We swung around together, and her guards came up over us. We were deep and she was light, and her guards were wide. I couldn't tell how far it was from the east bank of the river. I think it was about a mile above Natchez, or may be a little more.

384 In answer to the sixteenth interrogatory the witness says: After the collision I couldn't tell you how they were headed, for I went down in the hold.

In answer to the seventeenth interrogatory the witness says: I think it was checked—don't think she had much headway, if any. I don't think she was moving up stream any. It takes a good little bit to check a boat up when she is loaded heavy and going down stream.

In answer to the eighteenth interrogatory the witness says: As far as I know. I was in the hold. I think they ran her over on the bar. I felt her aground rubbing on the sand. They laid there until we found we could go on down to the wharf-boat. We went on to the wharf-boat and laid there until the next day. I didn't know the Lee was sunk until the next morning after breakfast. I don't know whether the Potomac blew any signals after the collision or not. I was bothered then, and couldn't tell you. I was in the hold. I didn' hear any signal from the Lee. Before the collision I heard Captain Shunk holler at them once or twice, but heard no reply from the Lee, and I didn't hear any from the Lee after the collision. After we were apart I heard Captain Cannon shout to his pilot, but I don't remember what he said, but not to us.

In answer to the nineteenth interrogatory the witness says: I
385 have answered all I know about that. She appeared to me to be coming from the Louisiana shore, as though she had taken a sheer with her pilots.

In answer to the twentieth interrogatory the witness says: She did not that I heard. I couldn't tell you any more about the Lee's course than I have in my last answer. I could't tell how she was coming. It looked like she was coming from the shore right over at us, and she kept coming until she hit us. I don't know whether she made any change in her course or not. I didn't hear the Lee ring her backing bell. I couldn't tell whether she was backing or not.

In answer to the twenty-first interrogatory the witness says: I know the pilot, and have known him for some time, and have known him to be running down there. I have always heard him spoken of as an A No. 1 pilot. I think he knew exactly where he was.

In answer to the twenty-second interrogatory the witness says: I don't think it was very dark—not what you call a very dark night. It was light enough to run. I heard no complaints at any time about her handling.

In answer to the twenty-third interrogatory the witness says: I don't think it was the fault of anybody on the Potomac. If she could have avoided the collision she would have done it. She done all she
386 could to avoid it. I don't know of any mismanagement or neglect at all, or any want of care and skill on our boat. I didn't notice the Potomac's signal lights at the time, but did when we got to the wharf-boat. They were burning then, and in their proper places, and I suppose they had been all along. I know they had not been touched since the collision, until we got down there.

In answer to the twenty-fourth interrogatory the witness says: Well, that I can't tell you. I think it was the fault of the Lee or an accident. The Lee might have stopped or got out of the road, or she might have taken a sheer with them. I don't like to say whose fault it was on the Lee. I don't know. There was no fault on our boat, so far as I know. I don't know whether they could have avoided the collision, but boats like them are apt to sheer suddenly from a bar or shoal shore into deep water. I don't think she had much of a load on her. Her guards were three or four feet out of water, and more than that at the bow. The boat going up-stream is the easiest handled and manœuvered. Going up stream she can be stopped much quicker and can be manœuvered more easily, because she has the current in her favor.

In answer to the twenty-fifth interrogatory the witness says: No. I saw the old man, Capt. Cannon, on our boat the next day talking with Capt. Shunk. but I was busy building a bulkhead and didn't overhear the conversation. I didn't hear one word he said. I saw him on the wharf-boat first, and think he came aboard our boat.

387 In answer to the twenty-sixth interrogatory, the witness says: Yes; she was injured. She was sprained in her knuckles and took water, had her stem twisted off, had her jack-staff knocked down and broken, her main stanchion was broken, and her bows were injured. She had to go on the docks, and was there two or three weeks for repairs. I think it was three weeks. All the repairs made on the docks were made necessary by the collision; I think we made nothing new, and the repairs in some places were not as good as she was before. The stanchion, for instance, was spliced, and that did not make it as good as it was before. There was some damage by delay at Natchez,

and on the way down and on the docks. We kept part of the crew while we were on the docks, to assist in getting dirt away, and the bulkhead out of the hold. We had to keep the pilots, engineers, clerks, mates, watchman, carpenter and firemen. The captain was there too. We paid off a few of the roustabouts and kept the balance because we could not have filled their places when the boat came off the docks. We all lived on the boat; I don't know what the damages amounted to, and have no account of it.

In answer to the twenty-seventh interrogatory, the witness says: I understand that Mr. Semple and Mr. Fink were owners, but don't know it from personal knowledge, and don't know whether there were others or not. I don't know what other damages they sustained; she lost some by delay. I could'nt tell what it cost her, and I have no account of it.

388 In answer to the twenty-eighth interrogatory, the witness says: I believe I have stated all that I can now recall.

Cross-interrogatories.

In answer to the first cross-interrogatory, the witness says: I have been to New Orleans once since—January 1st, 1872—on the Potomac, Captain Batchelor.

In answer to the second cross-interrogatory, the witness says: On the Potomac, Captain Batchelor; Ben Franklin, Captain Hildreth; St. Marys, Captain Woodburn—that's all this year.

In answer to the third cross-interrogatory, the witness says: I can't tell how far it was; I suppose the Potomac was a little over a mile from Natchez when I first saw the lights of the Lee. The Lee was close by at that time—but a little distance from us. The Potomac was on the left-hand side, or Natchez side, of the river at that time. The Lee was coming across from the other side.

In answer to the fourth cross-interrogatory, the witness says: I didn't hear the Lee's whistle at all. I saw the lights of the Lee and heard the Potomac's whistle, at about the same time. The Potomac blew two blasts; didn't hear the Lee blow any at all.

In answer to the fifth cross-interrogatory, the witness says: Our boat was over a mile from the wharf-boat, I should judge, when
389 she first whistled. The Lee was something like seven hundred or eight hundred yards from us at that time, as near as I could come to it. I am not a judge of distances on water after night. A pilot could tell better about that. The Potomac was on the left-hand side, and the Lee on the other.

In answer to the sixth cross-interrogatory, the witness says: I was on the forward, starboard guard—boiler deck; I stood there a little bit, until I saw they were going to come together, then I went back through the cabin up on the hurricane roof. After they came together I went down stairs, and went into the hold. I didn't hear the Lee's whistle. I have answered the rest of the question in my last answer.

In answer to the seventh cross-interrogatory the witness says: I could'nt tell how long it was before the boats collided. It wasn't long, I wouldn't like to set any time, for I don't know. I didn't notice the time, and I would have to guess at it. I don't think anybody else could tell the time, if he was placed in the same situation. The forward starboard quarter of our boat, and the forward larboard quarter of the Lee came in contact.

In answer to the eighth cross-interrogatory, the witness says: At

that time our boat had her head pointed straight down the bend—it appeared so to me. The Lee looked like she was crossing the river right over towards us—I couldn't tell exactly what shape she was in, but it looked that way to me—quartering up stream toward the Mississippi side.

390 In answer to the ninth cross-interrogatory, the witness says: She rang her stopping bells first—they are bigger than the backing bells—that's the way you can tell them apart; then she blowed her whistles, and then rung the bells to back; that's about as I remember it. I didn't hear any engine bells rung on the Lee, and I didn't hear her whistle. I was in the cabin when the Potomac rung her stopping bells, and I then went out on the guard; at that time the Lee was a good little piece away, but I couldn't give the distance; a fellow would have to guess at it; and I couldn't say how far they were apart when I heard the engine bells, after she whistled. I didn't hear the Lee's engine bells or her whistle. I can't give the distance the boats were apart when the Potomac rang her engine bells, for I don't know, and I don't want to guess at it.

In answer to the tenth cross-interrogatory, the witness says: On the hurricane roof. I had come up the stairs in front of the wheel. I have forgotten which stairs, whether larboard or starboard, I came up on; I have been trying to think, but do not remember. I didn't notice at that time the lights of the wharf-boat at Natchez; I did, when I first went out on the guards, but not after I went up on the hurricane roof.

In answer to the eleventh cross-interrogatory, the witness says: I don't know where the Lee sunk; I was in the hold, and didn't
391 see where she went. I didn't know she was sunk until next morning, and didn't see her then.

In answer to the twelfth cross-interrogatory, the witness says: I don't know. I am not familiar with the location of Brown's saw-mill or Brown's garden. I know there is a saw-mill above Natchez there, but never noticed it particularly, and don't know exactly where it is.

In answer to the thirteenth cross-interrogatory, the witness says: Think the point of collision was about a mile above Natchez wharf-boat. Don't know where the Lee sunk.

In answer to the fourteenth cross-interrogatory, the witness says: Yes, sir. All I said there was true, I think. I tried to have it that way. I haven't seen a copy of any of it since that time, and have not heard anything about it. I suppose it was all settled. I do not remember what I testified to there. I think I testified about as I have here. They might have asked me some different questions there, but I don't know, and some that I don't think of now.

In answer to the fifteenth cross-interrogatory, the witness says: I didn't hear any such conversation.

In answer to the sixteenth cross-interrogatory, the witness says: I have nothing more that I think of now. That is what I have
392 tried to do. One party is no more to me than another in a matter of this kind. I wouldn't state what I know to be wrong for either one of their steamboats. If there is any wrong in here, I don't know it, and I have heard it all read over.

PERRY HOLLAND.

Subscribed in my presence and sworn to before me this 7th day of October, 1872.

R. S. FULTON, *U. S. Com'r, S. D. O.*

GEORGE W. MELONA, being by me first solemnly sworn to testify the truth, the whole truth, and nothing but the truth, in answer to the interrogatories in-chief and cross-interrogatories hereto attached, testifies as follows:

Interrogatories-in-chief:

In answer to the first interrogatory-in-chief, the witness says: My name is George W. Malona; I am forty-one years of age; I reside in Covington, Kentucky; I am a pilot on the river by occupation; I have been employed on the river as pilot for twenty-three years, in the Cincinnati and New Orleans trade pretty much altogether. I have run also as pilot in the trade from Memphis to Cincinnati.

In answer to the second interrogatory, the witness says: I was acquainted with the steamboat Potomac, in the month of December, 1870, and was pilot on her at that time. She was then engaged in the Cincinnati and New Orleans trade, and was on a trip from the port
393 of Cincinnati to the port of New Orleans. Capt. Shunk was master. Mr. Devinney was first clerk, and there were two second clerks. Perry Holland was mate. Eugene Handlan and George W. Melona were pilots. Squires and Hall were engineers, and there were two strikers, whose names I do not recollect. These were the officers of the boat at that time.

In answer to the third interrogatory, the witness says: I know that she was fully officered, manned, and equipped, according to law, at that time. She was fully provided for the voyage she was then on. Her master, pilots, engineers, and mates were first-class men, I think, in character and standing at that time. I don't know her age exactly. She was a new boat. It was reported that her carrying capacity was 800 tons. All I know about that is from hearsay. I think she was staunch and river-worthy. I can't say that I know the kind and quality of her machinery. I never heard any complaint of it.

In answer to the fourth interrogatory, the witness says: She handled very well, and steered very well.

In answer to the fifth interrogatory, the witness says: Yes, sir; I know a little something about it. I was on the Potomac, employed on her as pilot. I was employed on her on that trip from Cincinnati to Natchez. I don't recollect the precise day we left Cincinnati, but she departed from the port of Cincinnati on that trip and was bound to New Orleans.

In answer to the sixth interrogatory, the witness says: Noth-
394 ing unusual happened on the trip up to the time of the collision. We were aground a little while at Flint Island, in the Ohio River, but that is nothing unusual in low water. The officers and crew of the Potomac behaved very well during that part of the voyage, I believe. I saw nothing out of the way with any of them. She was navigated and handled very well on the way.

In answer to the seventh interrogatory, the witness says: I was on board of the Potomac, at the time of the collision, as pilot. I was sitting in the hall of the texas, just before the collision, and at the time of the collision I was on the hurricane roof, starboard side, going aft just as they struck. Nobody was with me. I was not on watch.

In answer to the eighth interrogatory, the witness says: All that I know was, that I was sitting in the texas hall when the engine bells rung to stop her and back her, and he blew two short whistles. I then ran out through the door on to the starboard side, and saw the Lee coming right at us, and then I looked up and down the river and saw that the Potomac was in the right shape, I thought. She was lying

that time our boat had her head pointed straight down the bend—it appeared so to me. The Lee looked like she was crossing the river right over towards us—I couldn't tell exactly what shape she was in, but it looked that way to me—quartering up stream toward the Mississippi side.

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straight with the bend shore. I then started aft and was back on the stern when they struck. Just as I came out on the roof, I heard Capt. Shunk holler to the Lee, to stop that boat and back her. Our boat was on the Natchez side in the bend, about a hundred yards I thought, from the shore, and when I first saw the Lee she was coming from the opposite shore, or bar rather, toward the Natchez shore. I know that, because I saw it, and from the place where I was standing, I
395 could not have seen the Lee if she had not been coming from that side, for I noticed at that time that our boat was straight up and down the river with the bend. I noticed as I came out the shape of our boat, and looked to see that the first thing as I came out on the roof.

In answer to the ninth interrogatory the witness says: A few minutes before the collision I left the pilot-house, and up to that time the Potomac was going down the river in the right position, shaping the bend, running as we usually run along there; and she was in the same position in the river, only further down, when I came out again, as I have stated in my last answer. There is a gradual bend in the river there. The head of the bend is some two or three miles above the point of collision. It is a gradual bend from the head of the bend to the point of collision, and from the point of collision down to Natchez the river is straighter than it is above. The collision, as near as I could tell, was near abreast of Brown's garden, and above Brown's saw-mill. On the opposite side from Natchez there is a low sand-bar, between that and the other bank. On the Natchez side there is a pretty bluff bank all along, and below the place of collision there are some lumps on the Natchez side, right in the edge of the water, so that boats, in leaving the Natchez wharf-boat, have to cross over toward the opposite side coming up stream; I always do. We met the steamer McGill shortly before the collision in the same bend, up towards the head of the bend, near the head of the bend. The McGill blowed two whistles, and we answered with two.
396 We went down on the bend side of the river, and she passed up on the point side. I suppose this was about a mile and a half above the point of collision. After we passed the McGill I went right down into the texas, and don't know what course the Potomac pursued until she came in sight of the Lee, but of course she continued right on down on the bend side. As to the balance of the question, I cannot answer, as I was in the texas when the Lee first came in sight.

In answer to the tenth interrogatory the witness says: I do not.

In answer to the eleventh interrogatory the witness says: The Potomac sounded two whistles to go to the left. It was the Lee's place to signal first, but she didn't signal that I heard. I suppose the Potomac blew to notify them that she wanted to go down on the bend side. That is what it means—the two whistles. I heard no signal at all from the Lee.

In answer to the twelfth interrogatory the witness says: I think her stopping bells and her backing bells were rung before she blew her signal; but it was close together, and I am not certain. I don't think she rung her engine bells after she signalled, but won't be positive. Her backing-bells and her signal were close together. It is likely they were rung immediately after the signal.

In answer to the thirteenth interrogatory the witness says: I don't know. All I know is that I heard the bells ring to stop and back. Mr. Squires, I believe, was handling the engines at the time.

397 In answer to the fourteenth interrogatory the witness says:

As to the course of the Potomac when she blew her signal I don't know, for I was in the texas. She made no change in her course prior to receiving the blow from the Lee that I know of. At the precise time the blow was struck I was going aft, and didn't notice how the Potomac was pointed or how the Lee was lying. Just before I started aft the Potomac was in her right position, straight with the bend, and the Lee was coming at us quartering up-stream toward the Mississippi shore.

In answer to the fifteenth interrogatory the witness says: As to the shape of the boats when they came together, I have stated all I know in my last answer. The bow of the Potomac struck the larboard quarter of the Lee about eight feet aft of the Lee's stem. This I get from looking at the boats afterwards. The collision was about a mile and a half above Natchez, and about a hundred yards, I suppose, from the east bank of the river at the time.

In answer to the sixteenth interrogatory the witness says: They were both headed up-stream. The force of the collision swung us around with our head up-stream, and the Lee was alongside.

In answer to the seventeenth interrogatory the witness says: Well, I don't know. I think she was checked some (I don't know how much), for I supposed her engines were stopped and backing. I don't
398 think she had any sternway at the time of the collision. It takes some time to check up a down-stream boat when she is loaded and in the current.

In answer to the eighteenth interrogatory the witness says: We rounded out to the bar. Don't remember whether we blew any signals after the collision or not, or whether they were replied to or not.

In answer to the nineteenth interrogatory the witness says: The only answer I can make to that question is that when I first saw the Lee she was coming right toward us from the bar.

In answer to the twentieth interrogatory the witness says: I didn't hear any reply at all from the Lee. The Lee was coming right toward us when I first saw her, and made no change in her course until she struck us, except that she might have pulled down a little. I didn't hear the Lee ring any backing bells. I don't know whether she was backing when she struck the Potomac.

In answer to the twenty-first interrogatory the witness says: I think he knew exactly where he was, and exactly what he was doing at the time, and that he was acquainted with that part of the river. I have known him about twelve or fifteen years, and he has the reputation of being a very good pilot.

In answer to the twenty-second interrogatory the witness says:
399 It was a cloudy night; not a very dark night. There were no stars in sight, but the clouds were light; it was not a bad night to run.

In answer to the twenty-third interrogatory, the witness says: Well, so far as my knowledge goes, I don't think the Potomac was at any fault. I think they did everything they could to avoid the collision. I don't know of any want of care or skill, or any neglect or mismanagement on the part of anybody on our boat. Our signal lights were in their proper places, and burning. I know that, because I noticed them right away after the collision.

In answer to the twenty-fourth interrogatory, the witness says: Well, I think the Lee was in fault. In the first place, I don't think she blowed her whistle; then, I think she mistook us for the McGill, and pulled out to pass us; or, she might have got too close to the bar, and run off

straight with the bend shore. I then started aft and was back on the stern when they struck. Just as I came out on the roof, I heard Capt. Shunk holler to the Lee, to stop that boat and back her. Our boat was on the Natchez side in the bend, about a hundred yards I thought, from the shore, and when I first saw the Lee she was coming from the opposite shore, or bar rather, toward the Natchez shore. I know that, because I saw it, and from the place where I was standing, I
395 could not have seen the Lee if she had not been coming from that side, for I noticed at that time that our boat was straight up and down the river with the bend. I noticed as I came out the shape of our boat, and looked to see that the first thing as I came out on the roof.

In answer to the ninth interrogatory the witness says: A few minutes before the collision I left the pilot-house, and up to that time the Potomac was going down the river in the right position, shaping the bend, running as we usually run along there; and she was in the same position in the river, only further down, when I came out again, as I have stated in my last answer. There is a gradual bend in the river there. The head of the bend is some two or three miles above the point of collision. It is a gradual bend from the head of the bend to the point of collision, and from the point of collision down to Natchez the river is straighter than it is above. The collision, as near as I could tell, was near abreast of Brown's garden, and above Brown's saw-mill. On the opposite side from Natchez there is a low sand-bar, between that and the other bank. On the Natchez side there is a pretty bluff bank all along, and below the place of collision there are some lumps on the Natchez side, right in the edge of the water, so that boats, in leaving the Natchez wharf-boat, have to cross over toward the opposite side coming up stream; I always do. We met the steamer McGill shortly before the collision in the same bend, up towards the head of the bend, near the head of the bend. The McGill blowed two whistles, and we answered with two.
396 We went down on the bend side of the river, and she passed up on the point side. I suppose this was about a mile and a half above the point of collision. After we passed the McGill I went right down into the texas, and don't know what course the Potomac pursued until she came in sight of the Lee, but of course she continued right on down on the bend side. As to the balance of the question, I cannot answer, as I was in the texas when the Lee first came in sight.

In answer to the tenth interrogatory the witness says: I do not.

In answer to the eleventh interrogatory the witness says: The Potomac sounded two whistles to go to the left. It was the Lee's place to signal first, but she didn't signal that I heard. I suppose the Potomac blew to notify them that she wanted to go down on the bend side. That is what it means—the two whistles. I heard no signal at all from the Lee.

In answer to the twelfth interrogatory the witness says: I think her stopping bells and her backing bells were rung before she blew her signal; but it was close together, and I am not certain. I don't think she rung her engine bells after she signalled, but won't be positive. Her backing-bells and her signal were close together. It is likely they were rung immediately after the signal.

In answer to the thirteenth interrogatory the witness says: I don't know. All I know is that I heard the bells ring to stop and back. Mr. Squires, I believe, was handling the engines at the time.
397 In answer to the fourteenth interrogatory the witness says:

As to the course of the Potomac when she blew her signal I don't know, for I was in the texas. She made no change in her course prior to receiving the blow from the Lee that I know of. At the precise time the blow was struck I was going aft, and didn't notice how the Potomac was pointed or how the Lee was lying. Just before I started aft the Potomac was in her right position, straight with the bend, and the Lee was coming at us quartering up-stream toward the Mississippi shore.

In answer to the fifteenth interrogatory the witness says: As to the shape of the boats when they came together, I have stated all I know in my last answer. The bow of the Potomac struck the larboard quarter of the Lee about eight feet aft of the Lee's stem. This I get from looking at the boats afterwards. The collision was about a mile and a half above Natchez, and about a hundred yards, I suppose, from the east bank of the river at the time.

In answer to the sixteenth interrogatory the witness says: They were both headed up-stream. The force of the collision swung us around with our head up-stream, and the Lee was alongside.

In answer to the seventeenth interrogatory the witness says: Well, I don't know. I think she was checked some (I don't know how much), for I supposed her engines were stopped and backing. I don't
398 think she had any sternway at the time of the collision. It takes some time to check up a down-stream boat when she is loaded and in the current.

In answer to the eighteenth interrogatory the witness says: We rounded out to the bar. Don't remember whether we blew any signals after the collision or not, or whether they were replied to or not.

In answer to the nineteenth interrogatory the witness says: The only answer I can make to that question is that when I first saw the Lee she was coming right toward us from the bar.

In answer to the twentieth interrogatory the witness says: I didn't hear any reply at all from the Lee. The Lee was coming right toward us when I first saw her, and made no change in her course until she struck us, except that she might have pulled down a little. I didn't hear the Lee ring any backing bells. I don't know whether she was backing when she struck the Potomac.

In answer to the twenty-first interrogatory the witness says: I think he knew exactly where he was, and exactly what he was doing at the time, and that he was acquainted with that part of the river. I have known him about twelve or fifteen years, and he has the reputation of being a very good pilot.

In answer to the twenty-second interrogatory the witness says:
399 It was a cloudy night; not a very dark night. There were no stars in sight, but the clouds were light; it was not a bad night to run.

In answer to the twenty-third interrogatory, the witness says: Well, so far as my knowledge goes, I don't think the Potomac was at any fault. I think they did everything they could to avoid the collision. I don't know of any want of care or skill, or any neglect or mismanagement on the part of anybody on our boat. Our signal lights were in their proper places, and burning. I know that, because I noticed them right away after the collision.

In answer to the twenty-fourth interrogatory, the witness says: Well, I think the Lee was in fault. In the first place, I don't think she blowed her whistle; then, I think she mistook us for the McGill, and pulled out to pass us; or, she might have got too close to the bar, and run off

from it—that is, taken a sheer. She could have avoided the collision if she had stopped in time and backed; and if she had continued on in her proper course there would have been no collision. If she had signaled at the proper time, there need have been no collision. Large boats are apt to run off from a bar or shoal shore into deep water suddenly—a fast boat is more apt to sheer suddenly than a slower boat. I don't know how much load she had on. She was standing pretty well up out of the water, but I don't know how far, or what she had on her.

400 The ascending boat is more easily and quickly handled than a descending boat. They are generally lighter than a descending boat, and can stop quicker, and sheer quicker.

In answer to the twenty-fifth interrogatory, the witness says: Only the mate on the Lee. We were talking about who got to the hurricane roof first, and he stated that the steersman, who was in the Lee's pilot-house, ought to know. I asked him why they didn't have him testify before the inspectors, and he said he didn't know. I think he said his name was Roberts, and that he was a nephew of Captain Cannon's. I think the mate's name is Whitlow. I believe that is about all the conversation we had with reference to the matter. This conversation was in the presence of Handlan. It took place in New Orleans, when we were coming from the inspector's office. It was addressed to Handlan and me together. We were both there.

In answer to the twenty-sixth interrogatory, the witness says: Yes, she was injured; she had her stem knocked off, and her bow otherwise injured; she had to go on the docks for repairs at New Orleans; I don't know what the repairs cost, and have no account of the same. She had a new stem put on her, new stem-band, and a new jack-staff. The time was the big item of cost; I don't know what it amounted to. She had to keep her crew and officers on wages while she was being repaired.

401 In answer to the twenty-seventh interrogatory, the witness says: Capt. Fink was the only owner that I knew was an owner; I only knew of this by hearsay. I don't know what other damages they sustained. I suppose they sustained some damage by delay, but I don't know how much. I have no account of such damages.

In answer to the twenty-eighth interrogatory, the witness says: I don't know that there is anything more that I could state.

Cross-interrogatories.

In answer to the first cross-interrogatory, the witness says: I couldn't do it. I keep no account of the number of times; I have been there a number of times, but don't know how often.

In answer to the second cross-interrogatory, the witness says: On the Jennie Hull, Capt. Halliday; Charles Bodmann, Capt. Shunkle; Charles B. Church, Capt. Voorhes; Alaska, Capt. Frank Maratta; Minneola, Capt. Miller.

In answer to the third cross-interrogatory, the witness says: About a mile and a half, and the Lee about the same distance; they were near together; the Potomac was on the left hand side of the river going down, and the Lee was coming from the other.

402 In answer to the fourth cross-interrogatory, the witness says: Didn't hear the Lee whistle; I heard the Potomac's signal before I saw the lights of the Lee; the Potomac blew two blasts, and the Lee not any that I heard.

In answer to the fifth cross-interrogatory, the witness says: I don't know how far it was when the Potomac whistled, for I was then inside. I didn't hear the Lee whistle. The Potomac was on the Natchez side, and the Lee on the other side when I first saw her.

In answer to the sixth cross-interrogatory, the witness says: I was sitting in the hall of the texas; I came out on the starboard side on the hurricane roof, saw the Lee approaching, looked up and down the river to get the shape the Potomac was lying, and then went aft toward the stern of the boat. Didn't hear any whistle of the Lee's; when I heard the Potomac's whistle, I don't know how far the boats were apart, for I was not out.

In answer to the seventh cross-interrogatory, the witness says: I suppose it was about two or three minutes after I heard the Potomac's whistle until the two boats collided. The bow of the Potomac and the forward larboard quarter of the Lee came in contact.

In answer to the eighth cross-interrogatory, the witness says: For reasons already stated, I cannot answer the question. I was in the texas when our boat whistled, and looking aft when they struck.

In answer to the ninth cross-interrogatory, the witness says:
403 I think I heard her backing bells after she whistled immediately—am not certain—close together. I didn't hear any engine bells or any whistles from the Lee. As to the balance of the question I cannot answer.

In answer to the tenth cross-interrogatory the witness says: I was going back towards the stern, on the starboard side. The lights of the Natchez wharf-boat were to the left of the head of our boat, and ahead of us, from where I was. I didn't notice our jack-staff or the lights of the wharf-boat at the time they struck, and couldn't answer.

In answer to the eleventh cross-interrogatory the witness says: The Lee sunk a little above the point of collision, I think—a very little; she just rounded out to the bar.

In answer to the twelfth cross-interrogatory the witness says: It was just above the saw-mill, I think. I couldn't tell now whether it was above the garden or right abreast of it; and the Lee sunk a little above it—very little. I couldn't give the exact distances.

In answer to the thirteenth cross-interrogatory the witness says: About a mile and a half, I suppose.

In answer to the fourteenth cross-interrogatory the witness says:
Yes, sir; I think my testimony there was true and correct, so
404 far as I was asked. I don't remember whether it was read over to me after it was written down. I haven't seen a copy of any of it since.

In answer to the fifteenth cross-interrogatory the witness says: I stated in that answer how the conversation arose, and refer to it.

In answer to the sixteenth cross-interrogatory the witness says: I don't know of anything further that I could state. I have tried to state the truth in the matter, and nothing further occurs to me now.

G. W. MELONA.

Subscribed in my presence, and sworn to before me, this 16th day of October, 1872.

R. S. FULTON,
U. S. Com'r, S. D. O.

JOSEPH C. MARTIN, being by me first solemnly sworn to testify the truth, the whole truth, and nothing but the truth, in answer to the interrogatories-in-chief and cross-interrogatories hereto attached, deposes as follows:

Interrogatories-in-chief:

In answer to the first interrogatory the witness says: My name is

Joseph C. Martin. My age is thirty-nine. I reside at 1315 East Front street, in Cincinnati, Ohio. I am a ship-carpenter by occupation. I have been employed as ship-carpenter on the river for the last eighteen years, on and off. I have been on sometimes and off sometimes; it is owing to how business is ashore. I have been on the river
405 most of the time in that capacity. I have been employed in that capacity in most all the trades on the Mississippi River and its tributaries. I have run from Cincinnati and St. Louis to New Orleans; to Memphis, and in the Red River trade; from Cairo to Nashville, and so on.

In answer to the second interrogatory the witness says: Yes, sir; I was employed on the steamboat Potomac as carpenter at that time. She was then engaged in the Cincinnati and New Orleans trade. She made one trip from Cincinnati to New Orleans. John M. Shunk was master; Mr. Devinney was first clerk; Mr. Malone was acting as second clerk, I think, and Captain Charley Robinson was aboard of her, and acting as one of the clerks also. The pilots were George Melona and Eugene Handlan. The head engineer was Mr. Hall, and the second engineer was Presley Squires. John Davis and Mahlon Rusk were the strikers. Perry Holland was first mate, and William Lynch was second mate. I was carpenter, and William Devinney was watchman.

In answer to the third interrogatory the witness says: I can say yes, sir, to that. She was properly officered, manned, and equipped for any voyage on an inland stream, and for the voyage she was then on. So far as I know, the character and standing of her master, pilots, engineers, and mates was No. 1. They were men of good reputation, all of them, so far as I know. She was a new boat, and that was her first season. She was not a year old at that time. She would carry
406 in the neighborhood of 800 tons. She was staunch and river-worthy, a first-class steamboat of her class. She had lever engines; and I think they were No. 1 engines. Her machinery seemed to work well.

In answer to the fourth interrogatory the witness says: Nothing; only from hearsay. Her pilots claimed her to be a very nice-handling steamboat.

In answer to the fifth interrogatory the witness says: I know very little about it, as I was in bed at the time. I know that the collision occurred, and where it occurred; what shape the boats were in after it occurred, and the damage that was done by it. I was on the Potomac. I was employed as carpenter on her, in Cincinnati, at the commencement of her trip. I do not remember the date she left Cincinnati. She was bound to New Orleans.

In answer to the sixth interrogatory the witness says; Nothing unusual; I think all the officers and crew behaved very well, so far as I know. She handled well, and was navigated well, so far as I know.

In answer to the seventh interrogatory the witness says: I was aboard of the Potomac, as carpenter, at the time of the collision. At the time of the collision I was in my room, in the texas, in bed asleep, and had been there for half an hour or more. No one was there with me. I was not on duty.

In answer to the eighth interrogatory the witness says: I do not.

In answer to the ninth interrogatory, the witness says: As to
407 that question I only know this: When I came out, after the collision, the two boats were swinging together, with their heads pointed toward the Mississippi shore, as near as I could judge, and I judged it to be about one hundred yards from the Mississippi shore.

As near as I could judge from the position of the two boats at that time, and the parts of the two boats that came in contact, our boat was going straight down the river, and the Lee struck her pointed nearly straight across. This is a mere opinion, from what I saw after I came out, from the swinging position of the boats, and from the size and power of the two boats. Natchez sets in a left-hand bend descending the river; and where the collision occurred was about a mile above, and under a point bar. The Mississippi shore is a bluff bank, and there is a sand-bar on the opposite side.

In answer to the tenth interrogatory the witness says; No, sir.

In answer to the eleventh interrogatory the witness says: I heard no signals from either boat. I was asleep. I pay no attention to signals, and rarely hear them in any case—especially when abed.

In answer to the twelfth interrogatory the witness says: I know nothing about that.

In answer to the thirteenth interrogatory the witness says: I don't know, sir.

In answer to the fourteenth interrogatory the witness says: I don't know.

In answer to the fifteenth interrogatory the witness says: The
408 bow of the Potomac and the forward larboard quarter of the Lee came together very nearly head-and-head, that is, very nearly at right angles. I judge this from the effect of the blow upon both boats. When I came out, after the collision, I think they were about a hundred yards from the east bank of the river, and in the neighborhood of a mile above Natchez.

In answer to the sixteenth interrogatory the witness says: Both boats were pointed towards the Mississippi shore, and soon after the force of the blow and the action of the current put them both head up stream.

In answer to the seventeenth interrogatory the witness says: I cannot state. I do not know.

In answer to the eighteenth interrogatory the witness says: She first went to the bar, and I think got a tarpaulin over her head there. She then went to the wharf-boat and discharged a portion of her cargo, and built a "false bulkhead." I couldn't state positively whether she sounded any signal after the collision or not. I think Shunk called to Cannon to come alongside, but am not certain. It runs in my mind that he did. I heard no reply from the Lee.

In answer to the nineteenth interrogatory the witness says: As to all that, I do not know.

In answer to the twentieth interrogatory the witness says: I do not know anything about that.

409 In answer to the twenty-first interrogatory the witness says: I have known the pilot for some eight or ten years by reputation and personal acquaintance, though I have not known him as a pilot quite all that time. He stands high in his profession, and is steadily employed whenever the river is navigable from here to New Orleans. I infer from these facts that he knew exactly where he was, and was acquainted with the river along there, at the time. I believe him to be a steady, competent, and skillful pilot, and a man of strictly temperate habits.

In answer to the twenty-second interrogatory the witness says: I don't remember positively the character of the night, and don't know how she handled.

In answer to the twenty-third interrogatory the witness says: I shall have to answer that I don't know to all that.

In answer to the twenty-fourth interrogatory the witness says: I don't know whose fault it was, or whether the Lee could have avoided the collision. All boats are apt to become unmanageable in shoal water, and to run off from it suddenly. I don't know how the Lee was loaded. An ascending boat is easiest and quickest handled.

In answer to the twenty-fifth interrogatory the witness says: I shall have to answer no to that.

410 In answer to the twenty-sixth interrogatory the witness says: Yes, sir; she was. Her stem was knocked out, her jack-staff was knocked down, one of her cabin stanchions was broken, her butts were sprung, and she was generally wrenched all over. I couldn't estimate the extent of the damages, or the cost of the repairs. She had to go on the docks but I don't know what her dock bill was. Her bow was repaired, and she was recaulked all over. This was made necessary, because the blow opened her butts and seams all over, and she received water at nearly all her seams. Her caulking was good before the collision, and she had not leaked more than boats ordinarily do. She had a new jack-staff and gallows frame put on her; her stanchion was repaired; we put in a few floor timbers at the same time, but these were not caused by the collision. We had to put in a new stem, and to repair the stem-band. The boat was permanently injured; she was not made as good by the repairs as she was before the collision. If she had been my boat, I would not have had the injury happen to her for two thousand dollars and the repair bills. She was not as good a steamboat after the repairs by two thousand (2,000) dollars, as she was before the damage. I should consider that the permanent unrepaired injury to the boat. She has a weak point there that would affect her value and sale. The floor timbers I have alluded to, at a high estimate, would not have cost more than fifty dollars. There were a few temporary repairs also made at Natchez, the cost of which I once figured up and gave to Capt. Shunk, and I think he has it. I don't remember the details or the cost of them so as to state them now accurately.

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In answer to the twenty-seventh interrogatory, the witness says: No sir; I do not know who the owners were, except from hearsay. She had to retain part of her officers and crew while being repaired. She was delayed, I think, in the neighborhood of three weeks, on account of the collision. She was detained about twelve hours at Natchez, and was delayed some in going down, as we couldn't shove her, and she lay on the docks at Algiers in the neighborhood of three weeks. I don't know what her damages were by delay. I think her fair charter value in the business season, would be a hundred ($100) dollars a day; this would be over and above her portage and storage expenses. Portage and storage includes the necessary salaries of officers and men who were detained by the repairs, and the expense of feeding them. They lived on the boat. I have no account of these damages. I have owned several small boats, and have been engaged in building and repairing boats, and for many years been familiar with the use and value of vessels, and have known of a great many charters.

In answer to the twenty-eighth interrogatory, the witness says: I will say this: From the wrenching of the Potomac, and the opening of her butts and seams, I should judge that the force of the collision came from the other boat, and struck us quartering from our line of motion. If the force had been in the line of our motion, I don't think it would have wrenched her and opened her butts and seams in the way it did. My judgment is that our headway was pretty much

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checked, and that the other boat had a good deal on. If we had headway on we *we* would have gone right through her, as our stem and bow ran right under her guard, and hadn't that to encounter before reaching her hull; she being light, and standing up out of the water, her bow encountered the heavy timbers of our bow before reaching our hull. Our butts and seams were opened a good deal all the way long, and required the continual use of our pumps. She was badly wrenched. The boat that had the greatest headway was the one that swung the other. The Lee was repaired on a bow dock, which raises the bow up somewhat. The boat will give some all along and allow this to be done. The Lee was not put on a marine dock, and I think was not recaulked, except at the bow. She completed her repairs and got away on her trip some days before we did.

Cross-interrogatories:

In answer to the first cross-interrogatory, the witness says: I hav'n't been there this year.

In answer to the second cross-interrogatory, the witness says: Only one vessel, the Andy Baum, Captain Hiram J. Vinton, that has been running. I have worked on several others, and am employed on the Andy Baum now.

413 In answer to the third cross-interrogatory, the witness says: I didn't see the Lee until after the collision.

In answer to the fourth cross-interrogatory, the witness says: I did'nt hear the whistles of either boat.

In answer to the fifth cross-interrogatory, the witness says: I don't know.

In answer to the sixth cross-interrogatory, the witness says: I didn't hear the whistle of either boat.

In answer to the seventh cross-interrogatory, the witness says: I didn't hear the Potomac's whistle; the stem of the Potomac and the forward larboard quarter of the Lee came in contact.

In answer to the eighth cross-interrogatory, the witness says: I don't know only from inference, as stated in answer to the 9th, 15th, 16th 25th and 28th interrogatories-in-chief. From the facts there stated, I judge that our boat was pointed down the river, and the other quartering across the river, at the time of the blow.

In answer to the ninth cross-interrogatory, the witness says: I didn't hear the signals or engine bells of either boat.

414 In answer to the tenth cross-interrogatory, the witness says: I was in bed asleep on the larboard side of the texas. Looking from the place where I lay, you couldn't see the lights referred to.

In answer to the eleventh cross-interrogatory, the witness says: On the Louisiana side of the river, on a bar, about a mile above Natchez. I judge it was nearly opposite the place where they collided.

In answer to the twelfth cross-interrogatory, the witness says: I don't think it was to exceed a quarter of a mile from Brown's garden and saw-mill. They are close together. It was a little above I think. The Lee sunk at about the same distance above.

In answer to the thirteenth cross-interrogatory, the witness says: They collided, and the Lee sunk about a mile above Natchez.

In answer to the fourteenth cross-interrogatory, the witness says: I did not testify before the inspectors at New Orleans, and have not seen a copy of any of it.

In answer to the fifteenth cross-interrogatory, the witness says: I did not hear the conversation.

In answer to the sixteenth cross-interrogatory, the witness says: I believe I have stated all I know that would be of benefit to either side —all that now occurs to me.

JOS. C. MARTIN.

Subscribed in my presence and sworn to before me this 19th day of October, 1872.

R. S. FULTON,
U. S. Com'r, S. D. O.

415 JOHN FINK, being by me first solemnly sworn to testify the truth, the whole truth, and nothing but the truth, in answer to the interrogatories-in-chief and cross-interrogatories hereto attached, deposes as follows:

Interrogatories-in-chief:

In answer to the first interrogatory the witness says: My name is John Fink; I am sixty-seven years of age; I now reside in Bellair, Belmont County, Ohio. I am engaged at present in the glass business; I was formerly engaged in the river business, as keelboatman, flatboatman, and steamboatman; in all, something over forty years. I have coalboated from Wheeling to Marietta, Maysville, and Cincinnati, to Louisville and New Orleans. I have been steamboating from Wheeling to Cincinnati, Louisville, Cairo, Nashville, and to Pittsburg, as commander and also as laboring man. We had to learn the whole business from the beginning when I learned it. I have commanded several steamboats—my own boats—the Interchange, the Louisville, the stern-wheel Potomac, and the side-wheel Potomac.

In answer to the second interrogatory the witness says: Yes, sir; I built her, and superintended the building of the Potomac. She was on her first trip to New Orleans from Cincinnati at that time. Capt. Shunk was in command, and Mr. Devinney was first clerk and Mr Robinson was second clerk. Eugene Handlan was one pilot and George Melona the other. Mr. Hall was one of the engineers—since dead—and I have forgotten the name of the other. Perry Holland was mate. I don't recollect the names of the other officers.

416 In answer to the third interrogatory the witness says: She was fully officered, manned, and equipped. I equipped her all out myself, and furnished her with everything that the law required, at Cincinnati, before she started on that trip. I think she was fully provided for the voyage she was then on. I know nothing that was short. I think her master, pilots, engineers, and mates were all No. 1 men for their positions, in character and standing. She was fitted and furnished for the upper trade, in August, 1870. She afterwards received some more outfit for the New Orleans trade, suitable for that trade. For instance, we put more clothing in her, put some more false flooring or dunnage in her, and put some more hose on her, and, I think, one or two more syphon pumps than she had on her before when she was in the Cincinnati and Louisville mail trade. I forget now what her tonnage was. She would carry more than she would ton. She was a good carrier. She would carry about eight hundred tons. To the best of my judgment she was very staunch and river-worthy. She was a good, stout, new boat. She had been in use only about (80) eighty days. I think the mail company had her about sixty days; then we made a couple of trips from Cincinnati, above, taking ten days, and we then went into the New Orleans trade, and had been in service

about ten days before the collision with the Lee. I bought her machinery from Charley Dumont, and believe it was good machinery.

In answer to the fourth interrogatory the witness says: It is said by pilots that she handled beautifully; she handled and steered well.

417 In answer to the fifth interrogatory the witness says: I was on board of the Potomac at the time as a passenger. I can't remember the day, but it was in December, 1870, that she left the port of Cincinnati bound to the port of New Orleans. I think the collision took place on the 20th of December, between the hours of 12 and 1 o'clock.

In answer to the sixth interrogatory the witness says: Nothing unusual happened that I know of. Well, so far as my judgment goes, there was no fault in any of the officers or men; they managed the boat very well. I thought she was navigated well, and handled well—as well as boats generally are. I couldn't see anything out of the way.

In answer to the seventh interrogatory the witness says: I was aboard of the Potomac as a passenger, or "dead-head" rather. I had no fare to pay. I was sitting by the stove in the forward part of the hall, talking with a Mr. Hughes, or some one, and perhaps the bar-keeper, about a minute before the collision took place. There were two or three others with me.

In answer to the eighth interrogatory the witness says: I do. While we were sitting there talking, I heard the Potomac's stopping-bells ring; right after, her signal blew; right after that, her backing-bells rung. That frightened me. I jumped up and started to the door, forward. I met the bar-keeper coming in at the door. Says he, "Follow me! For God's sake, don't go there!" I ran back after him about two-thirds of the way toward the stern, when I felt and heard the jar

418 of the collision between two boats, as I supposed. I met Mr. Robinson, the second clerk, in coming forward; said he to me, "Captain, to think that I have been commanding boats for thirty years, and now have to be drowned!" Then I went to my room, a little aft of where I was when I met Robinson, and got a satchel that had some valuables in it, and went from there up on the hurricane roof. Says I to Capt. Shunk, "Captain, for God's sake, round the boat to, and get her over on the bar, so that the lives of these people may be saved!" He was standing in front of the pilot-house. He said to me, "Captain, you go down below; I'm captain of this boat." The jar was so heavy that I was afraid she was going to sink. It shook the part of the boat that I was on right smart. I didn't know whether the boat was going to run through us or over us, or what. It was a big jar, I know. I was most as badly frightened as Charley Robinson. After running about two-thirds of the length of the boat aft, I turned and ran toward the bow again about fifty (50) feet, and just as I was about meeting Charley Robinson the collision occurred. When I got up on the hurricane roof, where I could see the Lee, she was between two and three hundred yards away. As soon as I got my carpet sack I got on the hurricane roof as fast as I could, for I thought she was going down sure. The Potomac went to the bar first, and then got down to the wharf-boat. From the time the stopping-bells rung until the collision occurred was about three minutes, I think. After she got to the

419 wharf-boat the captain had the men take off stock and taking out freight, so that we could raise the bow up enough to build a bulkhead. It was a very cold night. The people all ran off the boat when she landed against the wharf-boat, and the night being very cold, when they saw the boat wasn't sinking, they went back on board

of the boat again, and got around the stoves. The captain went in and told them to come off, that he thought the boat was sinking, and they all came off. Along in the next morning, I don't remember the hour, I saw a man on board of our boat, or on the wharf-boat alongside of our boat, that they called Captain Cannon. He (Shunk) said that the Lee was sunk, and, I think, in ten feet water. When daylight appeared we could see the Lee laying on the bar. I didn't hear what Cannon said. I think we had to leave some freight on the wharf-boat that Capt. Shunk thought would endanger us too much to take.

In answer to the ninth interrogatory, the witness says: The collision occurred in a bend—it appeared to me to be in the bend. It was just at the foot of a bend. I am not familiar with the shape of the river or the character of the banks along there. As to the rest of the question I cannot answer, as I was in the cabin and don't know.

In answer to the tenth interrogatory, the witness says: I cannot answer that question.

In answer to the eleventh interrogatory, the witness says: I know the signal of the Potomac was blown before coming in contact with the Lee, but I don't remember what the signal was. I heard none
420 from the Lee. As to the balance of the question I cannot answer.

In answer to the twelfth interrogatory, the witness says: The Potomac rang her engine-bells to back after she sounded her signal. Don't know how far the Lee was off when those bells were rung.

In answer to the thirteenth interrogatory, the witness says: I know that the engines of the Potomac were stopped. I know that the backing-bells were rung, and I thought from the noise and the sound of the water that she was backing before the collision. I don't know who was handling the engines. As to the balance of the question I cannot answer.

In answer to the fourteenth interrogatory, the witness says: I cannot answer.

In answer to the fifteenth interrogatory, the witness says: I don't know what shape the boats were in; they struck us on our bow, on the starboard side of the stem. I saw the Lee afterwards in New Orleans, and she seemed to have been struck on the larboard quarter of her bow. I couldn't tell how far it was from the east bank of the river to the place of collision.

In answer to the sixteenth interrogatory, the witness says: I can't tell.

In answer to the seventeenth interrogatory, the witness says: I suppose she was checked up some, but I can't tell how much. With that current, and with the load we had on, it would take us, I suppose,
421 nearly five minutes to stop all her headway; I don't think she had sternway on at the time of collision.

In answer to the eighteenth interrogatory, the witness says: She went to the bar and afterward to the wharf-boat, as I have before stated. I can't remember about her distress-signal. I didn't hear any signal from the Lee at all, from beginning to end, that I recollect of.

In answer to the nineteenth interrogatory, the witness says: I don't know as to any of them questions.

In answer to the twentieth interrogatory, the witness says: I didn't hear any signal from the Lee, or any bells rung on her. As to the balance of the question I cannot answer.

In answer to the twenty-first interrogatory, the witness says: I do not know much about the pilot. He was well recommended, and said he was "fresh" from below.

In answer to the twenty-second interrogatory, the witness says: It was a dark, cloudy night. I don't know how she handled that night; she handles generally well, so the pilots say.

In answer to the twenty-third interrogatory, the witness says: Her signal-lights were burning in their proper places. I cannot an-
422 swer the rest of the question, as I was not out, and do not know. No fault of the Potomac came to my knowledge.

In answer to the twenty-fourth interrogatory, the witness says: Large boats are apt to run off suddenly from a bar or shoal shore for deep water. The ascending boat is the easiest and quickest handled and manœuvered—very much the easiest. She can stop quicker, and avoid an approaching boat easier. As to the balance of the question I can't answer.

In answer to the twenty-fifth interrogatory, the witness says: I didn't hear any such conversation from Capt. Cannon or any of the Lee's officers. I have heard it mentioned by others.

In answer to the twenty-sixth interrogatory, the witness says: Yes, she was injured; pretty badly, too. She broke away her forecastle, her guard-rim, in part, forward, breaking her stem and stem-plate, and mashed into her hull. The lick was sufficient to open her butts and seams, and she had to be recaulked in places all over. We thought when she came off the ways where she was built that she was good for three years without overhauling. She had nothing but the collision to damage her, and she had to be overhauled all over her bottom. She hadn't been in service more than eighty days, and her caulking was new. The repairs were made at Algiers, but I cannot tell the amount of it.

I was not there all the time, and I cannot set forth an account of
423 it, or the cost of it. Her repairs did not make her as good as she was before the collision. She was permanently injured. I feel safe in saying that she was permanently injured as much as two thousand dollars, at least. She wouldn't sell for as much by two thousand dollars, on account of this permanent injury. It would be impossible to make her as good as she was before. She cost $64,500, upon the closest economical management. I watched it all myself, and if I hadn't done it, it would have cost at least $10,000 more. They wouldn't duplicate the hull for less than two thousand dollars more than we paid for hers.

In answer to the twenty-seventh interrogatory, the witness says: Mr. Semple and I were the owners. We lost some freight, I think, which we had to send down from Natchez by other boats. We were delayed at Natchez, and on the way down, and about three weeks at New Orleans. Her fair charter value at that time was one hundred dollars a day; that's what the mail company here paid us for her, and it was not in the regular business season. In a regular business season she would be worth a good deal more than that. There was portage and storage while being repaired, and a temporary bulkhead built at Natchez. We had to keep the officers and part of the crew, and feed them. I don't know what these damages amount to, and have no account of it. Her expenses at that end of the river, while running, were about ($300) three hundred dollars a day.

424 In answer to the twenty-eighth interrogatory, the witness says: I do not now remember anything further.

Cross-interrogatories:

In answer to the first cross-interrogatory, the witness says: None at all.

In answer to the second cross-interrogatory, the witness says: Not any. I have been engaged in my glass business and other business in Bellair, Ohio.

In answer to the third cross-interrogatory, the witness says: I do not know as to any of that.

In answer to the fourth cross-interrogatory, the witness says: Being in the cabin, I can't answer that question.

In answer to the fifth cross-interrogatory, the witness says: I can't answer any part of that question.

In answer to the sixth cross-interrogatory, the witness says: I was in the cabin. I sat there until I heard the backing-bells, and the boat beginning to back. That alarmed me, and I went to the front door, where I met the bar-keeper; then I went back towards the stern of the boat about two-thirds the length of her. There I stopped. I then turned around and came forward about fifty feet, when the boats struck. The balance of the question I can't answer.

In answer to the seventh cross-interrogatory, the witness says:
425 I suppose about three minutes. The starboard bow of the Potomac and the larboard bow of the Lee came in contact.

In answer to the eighth cross-interrogatory, the witness says: I was in the cabin and couldn't tell.

In answer to the ninth cross-interrogatory, the witness says: I heard her backing-bells after she sounded her signal, perhaps a minute after. As to the rest I can't answer.

In answer to the tenth cross-interrogatory, the witness says: I was in the cabin, about aft of the stove, about the middle of the cabin, from side to side. As to the balance of the question I can't answer.

In answer to the eleventh cross-interrogatory, the witness says: On the bar, a mile or two above the Natchez wharf-boat. I can't answer the rest of the question.

In answer to the twelfth cross-interrogatory, the witness says: I can't answer.

In answer to the thirteenth cross-interrogatory, the witness says: A mile or more; from one to two miles.

In answer to the fourteenth cross-interrogatory, the witness says: I did not, and have not seen any of the evidence.

In answer to the fifteenth cross-interrogatory, the witness says: I have stated no such conversation.

426 In answer to the sixteenth cross-interrogatory, the witness says: I have stated all that now comes to my mind.

JOHN FINK.

Subscribed in my presence, and sworn to before me, this 21st day of October, 1872.

R. S. FULTON,
U. S. Com'r, S. D. O.

JOHN N. SHUNK, being by me first solemnly sworn to testify the truth, the whole truth, and nothing but the truth, deposes as follows, in answer to the interrogatories-in-chief and cross-interrogatories hereto attached:

Interrogatories-in-chief:

In answer to the first interrogatory, the witness says: My name is John N. Shunk; my age is fifty-three. I am a resident of Cincinnati at present. I am a steamboat captain by occupation, and have been a steamboat captain for about twenty years, in the trades from Pittsburg

to Cincinnati, from Cincinnati to St. Louis, and from Cincinnati to New Orleans. I have been on nearly all the trades upon the Western rivers. Before I became captain I was employed on the river as an engineer some eight or ten years, and have piloted some little.

In answer to the second interrogatory, the witness says: I was acquainted with her at that time; she was then engaged in the Cincinnati and New Orleans trade, and was running on a trip from the port of Cincinnati to the port of New Orleans. I was captain of her.

427 Henry Devinney was first clerk, and Charles Robinson was one of the second clerks, and a man by the name of Van Pool, I think it was, was the other. He is dead now. George Melona and Eugene Handlan were the pilots. Mr. Hall was head engineer and Presley Squires was second engineer. Mr. Hall is now dead. I let him off at Evansville, on our trip up, and he died there. A young man by the name of Rusk was one of the strikers, and I have forgotten the name of the other. Perry Holland was the first mate and William Lynch the second. I forget the carpenter's name—no, it was J. C. Martin—and Mr. Devinney was watchman. These were her officers during the month of December, 1870.

In answer to the third interrogatory the witness says: I do know how she was officered, manned, and equipped for the trade she was engaged in at the time referred to. She was fully officered, manned, and equipped for the voyage she was then on. She was fully provided with everything required under the law. The character and standing of her master, pilots, engineers, and mates were all good, as far as I know. They were all in good standing. I don't recollect the age of the boat exactly. She was less than a year old at that time. She was a new boat. I think she came out in August, 1870. Her custom-house measurement was about 500 tons, and her load was about 700 tons, I think. She carried more than her custom-house measurement—most boats do. She was staunch and river-worthy. Her machinery was good. She had "puppet-valve" or lever engines. She had seven feet and four inches

428 stroke. She had double-flued thirty-eight inch boilers, and her cylinders were twenty-four inches in interior diameter.

In answer to the fourth interrogatory the witness says: Well, I asked the pilots several times on the trip. They said she handled excellent.

In answer to the fifth interrogatory the witness says: I do, sir. I was on the steamer Potomac. I was in command of her. I was employed on her as captain at Cincinnati at the commencement of the trip. She departed from Cincinnati on or about the evening of the 10th of December, 1870, and was bound for New Orleans.

In answer to the sixth interrogatory the witness says: Nothing unusual happened up to the time of the collision. The behavior of the officers and crew during that part of the voyage was good, sir. She was navigated and handled first rate on the way. There was no complaint of her handling or of her machinery. Everything went along smoothly.

In answer to the seventh interrogatory the witness says: I was on board of the Potomac at the time of the collision, in the capacity of captain in command. I was on the hurricane deck, forward of the chimneys. I was on watch there. There was no person with me. I stood on watch from after supper until one o'clock. That was my watch.

In answer to the eighth interrogatory the witness says: I do know some of the facts and circumstances preceding the collision, and of the collision itself. I left the forward end of the hurricane deck, for-

ward, and walked back into the texas for the purpose of seeing if the first mate was up, as it was nearing one o'clock, and I wanted him up at Natchez, which was in sight. I was in there but a moment, and the starboard door of the hall in the texas was open. I heard our engine bells ring to stop. I immediately ran out of the door and went forward. Just as I came out the pilot sounded two whistles. I seen a boat coming toward us. I halloed to my pilot to back her hard. He answered he was backing. The boat was coming at that time so that I thought she would strike us about midships. I holloed at the top of my voice to the boat coming toward us to stop her and back her. I received no response from the boat, and I do not think the engines of the Lee were stopped until near about the time of the collision. I heard no signal and heard no engine-bells from the other boat. I noticed at the time I came out that our boat was pointed in the shape of the bend, parallel with the bend shore, and the other boat came nearly square across from the bar, on the opposite side. She struck us in the first place at the forward stationary fender of the Potomac. We were deeply loaded. The Lee's guard ran over the top of our forecastle, broke a portion of the capstan, and broke a wagon that was on our forecastle. She knocked our jack-staff down, and shoved our stem all over to the larboard side. I holloed to men immediately to go in the hold. They went in, and came up directly and reported the boat sinking. We set all our pumps and siphons to work, and ordered the pilot to run over to the bar, which he did. I went down then and took a survey myself of matters. I hailed the Lee twice to come alongside of us, after she backed away from us, but received no answer. We blew our distress-signal. We didn't know that the Lee was sinking at that time. She backed away from us and went up the river like the mischief. We didn't know she was hurt. She went above a little ways and landed on the bar, above where the collision was. After we got over on the bar I went down below, off the hurricane deck, to see how bad she was leaking and to see if our pumps were working. She was well supplied with pumps and siphons; she had two siphons, two bilge-pumps attached to the "doctor," and one hand-pump. They were all working well. I concluded that it was best for me to take her down to the wharf-boat at Natchez. I concluded I could keep her up. I went up to the hurricane deck again and ordered the pilot to go down to the wharf-boat, which we did. As soon as we arrived at the wharf-boat we let the passengers off on the wharf-boat, and commenced to roll off freight. Went up and got some large coal-boat pumps, and cut holes in the deck for them. I sent the carpenter to get stuff to build a bulkhead. While he was gone, by working the pumps all steadily, I found the water gained on us but little. The carpenter, with other carpenters, went to work and built a bulkhead across her head. After that was completed we could keep the water down. We were at Natchez about fourteen hours. After completing our repairs, about three o'clock the next day, we started to New Orleans. The collision occurred about a mile or a mile and a half above Natchez—just above some garden there is there. I think it is Brown's garden. It was about seventy-five (75) or one hundred (100) yards from the Natchez shore. Before I went into the texas hall, as I have stated, I had been on the hurricane roof, forward of the chimneys, pretty much all the night. I had not left there from the time we passed the McGill. I saw the lights of Natchez about the wharf-boat and the lights of the Natchez wharf-boat before I went to the texas hall, but I didn't see the Lee. She must have been off to the right at that time, or otherwise I should

have seen her. If she had been in the bend at that time, I couldn't have helped seeing her. As we were going to land, I was looking for the wharf-boat. The jar of the collision was very heavy; it strained our boat all over and opened our seams and butts all along; it loosened the caulking. There was no other cause for it, as we had struck nothing else, and the boat was new. I thought the Lee was coming very fast when I saw her. When I got out the Lee was some seven or eight hundred yards from us, as near as I could tell. It might have been more or less. Distances are hard to tell accurately after night that way.

In answer to the ninth interrogatory the witness says: She was running down the bend, shaping the bend. The river makes a regular bend there, and the collision happened in the bend. There is a pretty bluff shore on the Natchez side, and there is a bar on the opposite side.

Shortly before the collision we met the T. L. McGill coming up.
432 The McGill blew two whistles, the Potomac answering with two whistles. We passed down the bend side, and the McGill up on our starboard side. We met the McGill about a mile or a mile and a half above where we met the other boat, I suppose. The pilots would know the distance better than I would. I suppose we met her some ten or fifteen minutes before the collision. The Potomac passed on down the bend side, shaping the bend, until the collision. The Potomac was held down the bend on the Natchez side, in the course boats usually run down there. I can't say how far from the shore; it might have been a hundred yards, more or less, from the Natchez shore.

In answer to the tenth interrogatory the witness says: I don't know when he did first discover her. I thought she was some seven or eight hundred yards off when I first saw her, and the pilot saw her, of course, before I did. I don't know how far that was to the point of collision.

In answer to the eleventh interrogatory the witness says: Yes; she blew two whistles, sir, for the Lee to take up to the left. The Potomac and the Lee were some seven or eight hundred yards apart at that time—may be more. That's as near as I could tell. I heard no signal from the Lee.

In answer to the twelfth interrogatory the witness says: I don't know. I don't remember hearing the backing-bells, and think they must have rung while I was running out. When I got out I halloed to my pilot to back her, and he told me he was backing.

433 In answer to the thirteenth interrogatory the witness says: They were stopped. All I know about her backing is what the pilot told me. He said he was backing at the time, and I heard her escaping and feel satisfied that she was backing. I know she was stopped. Mr. Squires was handling one of the engines, and one of the strikers the other. Squires was on watch and had charge of the engines. I couldn't tell how far apart the boats were when the engines stopped, but I thought they were 700 or 800 yards apart when I came out, and it may have been over 800 yards that they were apart when the engines were stopped.

In answer to the fourteenth interrogatory the witness says: She was. She made no change in her course, that I seen, prior to receiving the blow from the Lee. At the time of the blow I think she was headed straight down the bend. The Lee was coming straight across the river, pointed pretty nearly square across toward the Natchez shore.

In answer to the fifteenth interrogatory the witness says: The Potomac was pointed down the river with the shape of the bend, and the Lee nearly straight across toward the Natchez shore; she was headed

a little up the river probably. The starboard stationary fender of the Potomac first struck, and the forward larboard quarter of the Lee. It was about a hundred yards from the east side of the river, and about a mile or a mile and a half above Natchez.

In answer to the sixteenth interrogatory the witness says: The
434 Lee was headed right toward the Natchez shore, slightly quartering up-stream, and the force of the collision swung our boat around with her head in the same direction. The force of the current carried the stern down until the bow of both boats were headed up-stream. After the collision the boats swung together and broke the fender aft of the Potomac's wheel-house on the starboard side.

In answer to the seventeenth interrogatory the witness says: It was checked. I think she had no sternway. It would take a boat a long time, coming down-stream loaded as she was, to get sternway on.

In answer to the eighteenth interrogatory the witness says: She hailed the Lee with two distress-signals, and received no reply.

In answer to the nineteenth interrogatory the witness says: She was running up the bar shore. I know she was coming from the bar when I saw her. I think when we sounded our signal the Lee was about 800 yards away; but as to the rest of the question I cannot answer.

In answer to the twentieth interrogatory the witness says: The Lee did not reply to the signal of the Potomac. The Lee came straight on in her course across the river; she didn't change her course any that I noticed until she struck; she came across from the bar. I cannot say if the Lee rang her backing-bells. I didn't hear them. I cannot say whether the Lee was backing or not at the time she struck us; she appeared to have a good deal of headway on.

435 In asnwer to the twenty-first interrogatory, the witness says: I am, sir. I have known the pilot's reputation a good while, and have known him personally to be a pilot from here to New Orleans. I have no doubt that he was perfectly familiar with the river along there, and knew exactly where he was. He is a skillful pilot and a strictly temperate man.

In answer to the twenty-second interrogatory, the witness says: It was what I would call a fair night to run; everything showed plain. I heard no complaint of her handling at all.

In answer to the twenty-third interrogatory, the witness says: I think the Potomac took every precaution she could. She did not fail or neglect to take every precaution. I am not aware of any mismanagement or neglect, or any want of care or skill on the part of any of the officers or crew on the Potomac. Everything was done that could have been done to prevent the collision by our boat. The Potomac's signal-lights were burning and in their proper places at the time of the collision.

In answer to the twenty-fourth interrogatory, the witness says: I think it was the fault of the Robert E. Lee. I think she could have avoided the collision. She could have avoided it by stopping when she started from the bar, or backing in time. She could have avoided it by keeping up around the bar shore, in her proper place. She could
436 have avoided it by signaling at the proper time—she has a very loud and distinct whistle. She had no right to be on the bend side at that point, unless her business called her specially to that side. It wasn't her proper place. Large boats are apt to sheer suddenly from a bar or shoal shore. I can't say how high the Lee's guards were out of the water—from four to five feet, I think. She was very nearly

light—she had very little load in her. An up-stream boat is the easiest and quickest handled and manœuvred.

In answer to the twenty-fifth interrogatory, the witness says: Captain Cannon came down to our boat the next morning, about nine or ten o'clock. He and I shook hands, and he said to me, "Old man, how, in the name of God, did that think happen?" I remarked to him that his "pilot neither blew a whistle or stopped his engines." He said to me, "I guess you must be mistaken; they certainly blowed the whistle." I remarked, "I am not mistaken; he neither blew his whistle nor stopped his engines." He said, "I don't know anything about it; I havn't said a word to my pilot about it." I was called away then. I was very busy tending to the boat, and didn't hear all he did say. I left him there, and there were several others standing around, who could tell what he said better than I could. I can't recollect all he said; I was attending to the boat; she was in a sinking condition, and I hadn't time to talk much. This conversation was addressed to me on our boat, while she was lying at the Natchez wharf-boat.

437 In answer to the twenty-sixth interrogatory, the witness says: She was badly injured. She was strained very much. All her caulking was opened, and her butts and seams were sprung. Her stem was knocked out. We put a tarpaulin over her head, and took her down to New Orleans, unloaded her, and took her over and put her on the docks. The hull-inspector for the underwriters at New Orleans directed that she should be recaulked. This was done, and a new stem put on her. The stem-band was repaired, and a new jack-staff and part of a new gallows-frame put on her, and some other repairs made. I don't remember exactly all the items. The bills will show. There was a stationary fender or two put on her, and some other repairs made. There were some little repairs done on her which were not made necessary by the collision, and which could have been done without going on the docks. There were some floor timbers put in, and I stirruped down her guards and sheathed her bow. This was extra work, done while we were waiting for the stem-band; it didn't delay us on the docks any, and could have been done without going on the docks. The whole cost of this extra work was not more than two hundred ($200) dollars, as the steamboat furnished the iron for sheathing, and this was not included in the dock bill. I attach hereto and make part of my deposition an account of the damages and repairs, showing the items and cost, from which should be deducted the said two hundred dollars which was included in the dock bill, for the reason that this extra work

438 was not caused by the collision. I mark it "Exhibit C," and attach it to my deposition. I had all the bills, and they were in a box on the boat, but cannot now be found, as the boat has been under charter twice since in the mail company's trade. We hope to find them, but may not. I know that all the above items were paid, for I paid them myself, and that they all grew out of the collision, except the $200, as above stated. The permanent injury done to the boat I would put at not less than three thousand dollars ($3,000.) She was not worth as much after the repairs were completed by at least three thousand dollars ($3,000) as she was before the collision. The boat was strained so badly that we couldn't get her butts or seams together as they were before. They are likely to be troublesome.

In answer to the twenty-seventh interrogatory, the witness says: The only owners I knew in her were Mr. Semple and Capt. Fink. We had to keep a portion of the crew and all of the officers under full wages while she was being repaired, and fed them on the boat. The detail of

this is in the bill, "Exhibit C." She was delayed at Natchez about fourteen hours, and we were delayed not less than ten hours on the way down. We didn't consider it safe to shove her any, or run of bad nights. She was delayed at New Orleans twenty-one days. I think a hundred dollars a day would be a fair charter value for the boat. She was fully worth that. In a business season as that was I wouldn't charter her for any such sum. She would be worth more in a
439 regular business season. This item is included in the bill.

In answer to the twenty-eighth interrogatory the witness says: I believe I have told about all I know. I think the force of the collision came from the Lee; for, as we were heavily loaded, if it had been from our boat we would have run right through her, as we went under her guards. If the force of the collision had been from our boat, in the situation in which we were, our butts and seams wouldn't have been sprung as they were; the force that sprung our seams and opened our butts must have been received across the line of our boat's motion; she wouldn't have been so badly strained all over if they had come together "head on," or if the force of the collision had been from our boat. The Lee was a large, heavy, rapid boat, of great power, and when I first saw her she was coming at the top of her speed, I thought. We had to reship part of our freight at Natchez, on the Mollie Able, not considering it safe to take it aboard of our boat again after the collision. We had to pay her sixty-six dollars and fifty cents for that, as is shown in the bill. The boat paid that at New Orleans.

Cross-interrogatories:

In answer to the first cross-interrogatory the witness says: About half a dozen times, but I don't remember the dates. I was very busy each time, and stayed but a short time; I was so busy that I
440 didn't get time to go to see the lawyer but once during that time. I called twice to see him, I believe, but only saw him once, and then but for a few minutes. He spoke about taking my deposition there when I got back, but when I got back I was very busy and hadn't time to attend to it, and didn't go to see him.

In answer to the second cross-interrogatory the witness says: I was in command of the Alice Dean during the spring run to New Orleans; afterward, in low water, I commanded the Anna to Memphis, where she was sold, and I am just back on a trip to New Orleans on the Shannon. I was captain of these three boats.

In answer to the third cross-interrogatory the witness says: About a mile and a half above the wharf-boat, I suppose, or some such matter. The Lee wasn't quite so far away from the wharf-boat. The Lee was over near the bar, in the angle, not so far from the wharf-boat as we were quite. The Potomac was on the bend side, and the Lee on the bar.

In answer to the fourth cross-interrogatory the witness says: I didn't hear the Lee whistle. I saw the lights of the Lee, and heard the Potomac's whistle about the same time. The Lee blew no blast. The Potomac blew two.

In answer to the fifth cross-interrogatory the witness says: Some place between a mile and a half and two miles; I can't tell ex-
441 actly. I didn't hear the Lee whistle. The Potomac was in the bend, and the Lee was near the bar.

In answer to the sixth cross-interrogatory the witness says: I was right at the door, a little forward of the door of the texas, on the starboard side. I looked toward the bar and seen the boat coming quar-

tering across the river toward the steamer Potomac. I first holloed to my pilot to back our boat, and he said he was then backing. I then holloed to the boat coming toward us to stop and back her. I gave three distinct calls to them from the forward part of the hurricane roof of the steamer Potomac. I went forward of the chimneys on the hurricane roof. I didn't hear the Lee whistle. They were about 800 yards apart when I heard the Potomac's whistle, as near as I could judge.

In answer to the seventh cross-interrogatory the witness says: It was a short space of time. I' was about three minutes, I think—two or three minutes. The bows of the two boats came in contact—the starboard bow of the Potomac and the larboard bow of the Lee.

In answer to the eighth cross-interrogatory the witness says: Our boat was pointed about in the shape of the bend, and the Lee was pointed from the bar toward the Natchez shore, quartering up-stream a little. The Potomac was pointed with the bend and the Lee toward the Natchez shore at the moment of collision.

442 In answer to the ninth cross-interrogatory the witness says: I don't remember of hearing any engine-bells after the whistle. I didn't hear the Lee's whistle or engine-bells.

In answer to the tenth cross-interrogatory the witness says: I was standing on the hurricane deck, starboard side, forward of the chimneys, at the moment of collision. The lights of the wharf-boat were a little to the starboard side of the head of our boat, and to the starboard side of our jack-staff, from where I stood.

In answer to the eleventh cross-interrogatory the witness says: Well, as near as I could tell, from a quarter to a half mile from where the collision took place. It was from a quarter to a half mile above the place of collision.

In answer to the twelfth cross-interrogatory the witness says: But a very short distance from Brown's garden, but I think a little above. I don't know about the saw-mill. I know there is a saw-mill, but I don't know whether it is Brown's or not, and don't remember its exact location. She sunk in the neighborhood of half a mile above Brown's garden.

In answer to the thirteenth cross-interrogatory the witness says: The point of collision was in the neighborhood of a mile and a half and the Lee sunk in the neighborhood of two miles above the Natchez wharf-boat.

443 In answer to the fourteenth cross-interrogatory the witness says: I think I did; I don't recollect what it was. I suppose it was correct and true. It was intended to be at the time. I have not seen a copy of it, and never saw what the other witnesses testified to at all.

In answer to the fifteenth cross-interrogatory the witness says: Capt. Cannon came down the next morning, and came aboard our boat. We shook hands, and he said, "Good morning, old man; how, in the name of God, did this happen?" Capt. Cannon int'oduced the matter.

In answer to the sixteenth cross-interrogatory the witness says: I have stated that to the best of my ability, sir.

J. N. SHUNK.

Subscribed in my presence and sworn to before me, after being by me read over to the said witness, this 24th day of October, 1872.

R. S. FULTON,
U. S. Com'r, S. D. O.

444 Here appears—

EXHIBIT C.

Repairs and portage account.

444a *Steamer Rob't E. Lee & owners to owners of steamer Potomac.*

For amounts paid out for expenses incurred by reason of collision between steamers R. E. Lee & Potomac, on or about Dec. 20th, 1870.

| | | |

Perry Holland, mate,	"100	"	"	.....	69 93
Wm. Lynch, 2 "	" 60	"	"	.....	42 00
John Davis, striker,	" 30	"	"	.....	30 00
Jas. C. Martin, carpenter,	" 60	"	"	.....	42 00
Henry Alfords, steward,	" 60	"	"	.....	42 00
John Parker, 2 "	" 30	"	"	.....	21 00
Wm. Jones, cabin-boy,	" 18	"	"	.....	12 60
Wm. Bessin, lamp-trimmer,	" 20	"	"	.....	14 00
Jos. Mason, cabin-boy,	" 15	"	"	.....	10 50
John McDenit, baker,	" 75	"	"	.....	52 50
Thos. Thomberg, pantryman,	" 25	"	"	.....	17 43
John Mosser, cook,	"100	"	"	.....	69 93
Rose Dugan, chambermaid,	" 30	"	"	.....	21 00
Anne Thompson, 2d do.	" 15	"	"	.....	10 50
7 firemen, $35 per mo. each,	"245	"	"	.....	171 48
Jos. Hewell, deckhand,	" 40	"	"	.....	27 93
Prestly Squires, engineer,	"110	"	"	.....	76 86
					$1,378 88

Oct. 24, 1872.
(Signed) J. N. SHUNK.

"Exhibit C."
(Signed) R. S. FULTON,
U. S. Com'r.

445 WILLIAM S. LYNCH, being by me first solemnly sworn to testify the truth, the whole truth, and nothing but the truth, in answer to the interrogatories-in-chief and cross-interrogatories hereto attached deposes as follows:

Interrogatories-in-chief:

In answer to the first interrogatory-in-chief, the witness says: My name is William S. Lynch; my age is about forty-five. I am a steamboat mate by occupation, and have followed that occupation some twenty years and upwards, from Cincinnati to New Orleans, from Cincinnati to St. Louis, from Cincinnati to Nashville, and from Cincinnati to Memphis, and other Western trades. I reside in Monroe county, Ohio.

In answer to the second interrogatory, the witness says: Yes, sir; she was then engaged in the Cincinnati and New Orleans trade; running from the port of Cincinnati to the port of New Orleans. Her officers were John N. Shunk, captain; George Melona and Eugene Handlin, pilots; Mr. Devinney was clerk; Hall and Squires were the engineers; I don't recall the names of the strikers; Perry Holland was first mate, and I was second mate; William Devinney was the watchman, and Joseph C. Martin was the carpenter.

In answer to the third interrogatory, the witness says: I do. I know she was fully manned and equipped, and was fully officered. She had a good crew, and competent officers, for that trade and the voyage
446 she was then on. I believe her master, pilots, engineers, and mates were men of good character and standing, as far as I know. She was a new boat; probably not more than a year old, if that. I don't know her exact age. I don't know what her tonnage was. I called her a staunch and river-worthy boat. I considered she had good machinery in her, so far as I know about machinery.

In answer to the fourth interrogatory, the witness says: I am under the impression that she was a very good handling boat. I never heard anything to the contrary before the collision. She was regarded as a good handling boat.

In answer to the fifth interrogatory, the witness says: I do know something about it. I was employed as second mate on the Potomac at that time. I had been on her, in that capacity, from the commencement of that trip. She left Cincinnati sometime in December—I don't recollect the day—and was bound to New Orleans.

In answer to the sixth interrogatory, the witness says: I don't know of anything unusual having happened on the voyage, up to the collision. The officers and crew behaved as well as men generally do; I saw nothing out of the way with any of them. She appeared to be navigated well on the way; I didn't see anything wrong; I thought she was handled very well.

In answer to the seventh interrogatory, the witness says: I was on board the Potomac at the time of the collision, as second mate. I was back in the deck-room on the starboard side, just before the col-
447 lision; I had gone back there to call the men up for Natchez. I was along by the starboard engine when the boats struck. I don't know that there was anybody in particular there with me. The striker was up on the foot-box of the starboard engine, at his engine. I was on watch; I went on watch at supper time.

In answer to the eighth interrogatory, the witness says: I was out on the forward part of the lower deck, about the hatches, getting freight ready to put off at Natchez. I heard the Potomac's whistle, and I was under the impression that she was blowing for Natchez. I don't recollect of seeing the lights of Natchez at that time; I went back in the deck-room, in the stern of the boat, to get the men up; I called them up. After I called the men up, I started forward, and got about abreast of the engines when the bells rung to stop her and immediately rung to back her. I don't remember that I heard any whistles then, and from the place where I was I wouldn't be likely, from the noise in the engine-room, to notice them. When the bell rung to stop her, the striker stopped her, and then he got ready to back her, and when the bell rung to back her, he backed her. I don't know what the larboard engine done, at all; for there was a pile of freight stowed up between me and the larboard engine. I don't know how many revolutions she made back before the collison; I thought she backed long enough to check her if the other engine backed too. After the boats struck, I went forward and went down the forward scuttle into the hold, to see
448 what damage was done. I found her making water very fast at the stem. I got a tarpaulin and put it over her head as soon as we could, to stop the pressure of the water. Capt. Shunk wanted to know if we couldn't take her to the wharf-boat, and we afterwards took her to the wharf-boat. We put some freight off there, and built a bulkhead of lumber, and filled it in with cotton and mud. After the collision, I heard that we passed another boat before we met the Lee. It was sometime after the Potomac's signal that I heard, until the collision and it is probable that the whistles that I heard were for the McGill. I didn't see the McGill.

In answer to the ninth interrogatory, the witness says: It is kind o' crooked there where the collision happened. There is a bar puts out on the right-hand side going down, and there is a bend on the Natchez side, and a bluff bank. I understood after the collision that we had passed the McGill. As to the rest of the question I don't know and can't answer.

In answer to the tenth interrogatory, the witness says: I don't know, sir.

In answer to the eleventh interrogatory, the witness says: I heard no signals from the Lee. As to the rest of the question I don't know.

In answer to the twelfth interrogatory, the witness says: I heard the bells I have spoken of. I heard the stopping-bell, and then the backing-bell. They were very close together. I don't know how far off the Lee was when these bells were rung. I couldn't see her.

449 In answer to the thirteenth interrogatory the witness says: The starboard engine was stopped, and was backed before the collision. I don't know about the other. The striker's name I don't recollect. The second engineer, Pres. Squires, was on watch at the larboard engine. The starboard engine was backed very quick after she stopped. I don't know how far the two boats were apart when the engine was stopped, or where it was backed.

In answer to the fourteenth interrogatory the witness says: I don't know, sir.

In answer to the fifteenth interrogatory the witness says: The starboard forward quarter of the Potomac and the forward part of the Lee struck. I learned this afterwards, from the way the boats were injured. As to the rest of the question, I don't know.

In answer to the sixteenth interrogatory the witness says: I don't know.

In answer to the seventeenth interrogatory, the witness says: I believe it was checked some; I don't know how much; I don't know whether she had sternway on; I don't think she had.

In answer to the eighteenth interrogatory, the witness says: I don't know; I was very busy, and part of the time in the hold. I don't know about any signals. I was attending to something else.

In answer to the nineteenth interrogatory, the witness says: I don't know.

450 In answer to the twentieth interrogatory, the witness says: I don't know.

In answer to the twenty-first interrogatory, the witness says: I was not acquainted with the pilot before that, and cannot answer.

In answer to the twenty-second interrogatory, the witness says: I don't hardly recollect. I didn't hear any complaints of her handling.

In answer to the twenty-third interrogatory, the witness says: I do not know, and cannot say. I don't know about the signal-lights. There was no mismanagement or neglect that I saw on the Potomac, or that I know of.

In answer to the twenty-fourth interrogatory, the witness says: Large boats are apt to run away suddenly from a bar or shoal shore. I don't think the Lee had much of a load on her, but don't know how high her guards were out of the water. An up-stream boat is easiest and quicker handled and managed, I think. She has the current to check her headway when she wants to stop. A boat will handle better up than she will down. As to the rest of the question I cannot answer.

In answer to the twenty-fifth interrogatory, the witness says: I don't recollect of hearing the conversation.

451 In answer to the twenty-sixth interrogatory, the witness says: Yes, sir; she was injured. I am not able to say how much she was damaged. She was damaged pretty smart. Her stem and deck were broken up pretty considerably, and beams; her jack-staff was knocked down; some freight was broken up. They fixed her stem and bow, and repaired the break-up. She was recaulked. She had to go

on the docks for repairs. She had a piece broken off her capstan. A wagon was broken, and a hook and ladder wagon, or, may be it was a transfer wagon, was badly mashed up. I don't know the cost of the repairs.

In answer to the twenty-seventh interrogatory, the witness says: I don't know who were the owners of the Potomac. We were delayed at Natchez until sometime the next day, and were detained at New Orleans some time. I don't recollect how many days we were on the docks. We kept some men there, and the officers of the boat. I don't know what these other damages would amount to.

In answer to the twenty-eighth interrogatory, the witness says: I don't know of anything else that I could state.

Cross-interrogatories:

In answer to the first cross-interrogatory, the witness says: I don't think I have been there but once. I think I was there on the Nicholas Longworth, Captain Kates, in January.

452 In answer to the second cross-interrogatory, the witness says: Well, I was on the Longworth, Captain Kates; Kate Robinson, Capt. J. Patterson; on the Laurence, with Captain Farrell; on the Nashville, this summer, with Captain Drinkwater—I believe that's all.

In answer to the third cross-interrogatory, the witness says: I don't know; I didn't see the Lee until after the collision. As to the rest of the question I do not know.

In answer to the fourth cross-interrogatory, the witness says: I didn't hear the Lee whistle. I didn't see the lights of the Lee until after the collision. I think the Potomac blew two whistles, as I have stated.

In answer to the fifth cross-interrogatory, the witness says: I don't know.

In answer to the sixth cross-interrogatory, the witness says: I was on the forward part, around the hatches and steps, when I first heard the whistle. I went from there back into the deck-room, and called the men out. I didn't hear the Lee's whistle, and don't know how far apart the boats were when I heard the Potomac's whistle.

In answer to the seventh cross-interrogatory, the witness says: It was three or four minutes, or something that way, perhaps more, as near as I could tell. The bows of the two boats came in contact, as stated before.

453 In answer to the eighth cross-interrogatory, the witness says: I don't know.

In answer to the ninth cross-interrogatory, the witness says: I heard the starboard engine-bells ring to stop and then to back. I am not certain that she blew for the Lee—it may have been for the McGill. It was probably three or four minutes from the whistle until the engine-bells rung. I did not hear the engine-bells of the Lee or her whistle. I don't know how far apart the boats were when I heard the Potomac's whistle.

In answer to the tenth cross-interrogatory, the witness says: I was back alongside the starboard engine. From that place I couldn't see the lights of the Natchez wharf-boat.

In answer to the eleventh cross-interrogatory, the witness says: The Lee sunk above Natchez, on a bar; the distance I couldn't say—may be a mile and a half or two miles. I couldn't say whether it was above or below the place of collision.

In answer to the twelfth cross-interrogatory, the witness says: I don't know. I don't know where Brown's saw-mill and garden are.

In answer to the thirteenth cross-interrogatory, the witness says:

Where the Lee lay was probably a mile and a half or two miles
454 above Natchez, but I don't know how far the collision was above. I don't know whether the Lee was moved up or down after the collision.

In answer to the fourteenth cross-interrogatory, the witness says: I did not, and have seen none of the testimony.

In answer to the fifteenth cross-interrogatory, the witness says: I didn't hear the conversation.

In answer to the sixteenth cross-interrogatory, the witness says: I don't know of anything that would benefit or injure either party.

WILLIAM S. LYNCH.

Subscribed in my presence and sworn to before me, this 30th day of October, A. D. 1872.

R. S. FULTON,
U. S. Com'r, S. D. O.

SAMUEL WOODSON, being by me first solemnly sworn to testify the truth, the whole truth, and nothing but the truth, in answer to the interrogatories-in-chief and cross-interrogatories hereto attached, deposes as follows:

Interrogatories-in-chief:

In answer to the first interrogatory, the witness says: Samuel Woodson is my name. I am twenty-seven years old. I reside at Ripley, Ohio. I have been employed on the river as fireman for about eighteen years. My father took me on with him when I was a boy. I was ash-hauler at first. I have run from here to New Orleans, to Memphis, to St. Louis, and to Nashville.

455 In answer to the second interrogatory, the witness says: I was. She was on her first trip to New Orleans at that time, running from Cincinnati to New Orleans. Capt. Shunk was master. I don't know her pilots. Pres Squires and Mr. Hall were the engineers. I don't know the clerk. Snapper Davis was one of the strikers. I don't know the other one's name. Perry Holland was head mate, and Bill Lynch was the other. Bill Devinney was the watchman, and a man by the name of Martin was carpenter.

In answer to the third interrogatory, the witness says: I think she had all the officers and men she wanted, and I think she was provided with everything necessary. Her officers had pretty good reputation, as far as I know; never heard anything against any of them in my life. She was a new boat, but I can't tell her age. I couldn't tell how much she would carry. She was sound and river-worthy. She had good machinery. It was counted No. 1 machinery.

In answer to the fourth interrogatory, the witness says: Everything worked free and easy about the engines, so far as I know. I don't know about her steering. I didn't notice that they had any trouble with her steering.

In answer to the fifth interrogatory, the witness says: I do. I was on the Potomac at the time, as fireman. I had been on her about two months as fireman. I was on her when she first came out, and made her first trip on her up the river to Wheeling. We left Cincin-
456 nati on that trip on a Friday evening, but I don't recollect the day of the month. She was bound to New Orleans.

In answer to the sixth interrogatory, the witness says: Nothing unusual happened on the way. I didn't see anything occur. The officers and crew behaved well. I seen nothing out of the way. Every-

thing worked free and easy on the way during the time I was on watch.

In answer to the seventh interrogatory, the witness says: I was—as fireman. I was right in the coal-box, in front of the fire-doors. When the engineer rang the bell to open the fire-doors I stepped out on to the guard on the larboard side. Jesse Arnold, fireman, was with me, and stepped out there at the same time. I was on watch. I went on watch at six o'clock in the evening. William Graham was there too.

In answer to the eighth interrogatory, the witness says: I don't know much about it. I know some things that happened on our boat. I heard them ring the bells to stop. Then the engineer rang the bell to open the fire-doors. The boys opened up, and I stepped out on the guard. When I got out the Potomac blew two whistles; then the backing-bells rung right off. She was backing before the boats struck. I saw nothing more until the collision. I didn't see the Lee until just as she struck us, when I saw them open her fire-doors. The jar was awful heavy. It knocked Jesse Arnold down, and it knocked Jacob Williamson down and he got run over. The boats parted and went over to the bar. The Potomac soon after went to the wharf-
457 boat, and rolled off freight till morning, and the carpenter and others built a bulkhead.

In answer to the ninth interrogatory, the witness says: The Potomac was running straight down with the bend. There is a bend there. There is a high bank on the left going down, and a bar on the other. The Potomac passed the McGill just before the collision. I saw the McGill. The Potomac passed on the larboard side, and the McGill went between the Potomac and the bar. I couldn't tell how far it was above the place of collision—it wasn't very far. The Potomac passed right straight on down the bend, I think, after she passed the McGill. I could not tell now far she was from the shore, but she was held straight down the river.

In answer to the tenth interrogatory, the witness says: I do not.

In answer to the eleventh interrogatory, the witness says: The Potomac sounded two whistles; I don't know why, and don't know how far she was from the Lee. I didn't hear any whistles, only what the Potomac blowed.

In answer to the twelfth interrogatory, the witness says: Yes, sir; they both rung to stop her, and they rung to back. They rung to stop before the whistles, and rung to back after the whistles. The backing-bells were rung not more than three minutes before the collision, if that, and right after the whistles. I don't know how far off the Lee was.
458 In answer to the thirteenth interrogatory, the witness says: Yes, sir; they stopped the engines about four minutes before the collision, as near as I could come at it. The engines were backed right away after the bells rung. Mr. Squires and Snapper Davis were handling the engines. I don't know how far apart the boats were.

In answer to the fourteenth interrogatory, the witness says: Yes, sir; I thing she was pursuing her proper course. I didn't notice any change in her course. I don't think she made any. The Potomac was headed straight down the river when the boats struck. I couldn't tell how the Lee was headed, but think she must have been headed across the river. I didn't see her until just as she struck.

In answer to the fifteenth interrogatory, the witness says: The Lee was on the Potomac's head, quartering across her. The heads of the boats came in contact. I couldn't tell how far they were from the east bank of the river. They were on that side of the river at the time.

In anwer to the sixteenth interrogatory, the witness says: They was both pointed toward the east bank of the river. The Lee shoved us around.

In answer to the seventeenth interrogatory, the witness says: Yes, sir; they had checked her headway. Don't think she had sternway.

In answer to the eighteenth interrogatory, the witness says: I don't think she did. I was in the hold, and don't know what took place.

459 In answer to the nineteenth interrogatory, the witness says: I don't know anything about that.

In answer to the twentieth interrogatory, the witness says: I didn't hear any signal from the Lee. As to the balance of the question I don't know.

In answer to the twenty-first interrogatory, the witness says: I am not; I don't know the pilot.

In answer to the twenty-second interrogatory, the witness says: It was kind of a dark, cloudy night. Everything worked free and easy about the engines, as far as I seen.

In answer to the twenty-third interrogatory, the witness says: I don't know. As far as I know, every person on our boat did his part. The signal-lights were burning; I saw them from the forecastle.

In answer to the twenty-fourth interrogatory, the witness says: I don't know. From the way Captain Cannon was talking the next morning, I should think it was the Lee's fault. I should think the Lee ought to handle easier than the Potomac. The Potomac was loaded heavier than the Lee was. The Lee was very light. I couldn't tell how high her guards were out of the water. The Potomac's guards run in the water.

460 In answer to the twenty-fifth interrogatory, the witness says: Nothing, only what Captain Cannon said on the forecastle of our boat the next morning. He was talking to Capt. Shunk. He said that his pilot thought it was the Gill going up. There was nothing else that I heard. I couldn't say, now, who else was present.

In answer to the twenty-sixth interrogatory, the witness says: Yes, sir; I couldn't tell what damage was done to her; there were some repairs made on her across the river from New Orleans. Her nosing and one thing and another was fixed; they caulked her and then put sheet-iron on her bow. I worked on her, wheeling out dirt out of the hold. I don't know what the repairs cost.

In answer to the twenty-seventh interrogatory, the witness says: I do not. I know it caused her delay; I don't know how much, and I don't know about other damage.

In answer to the twenty-eighth interrogatory, the witness says: I believe I don't know of anything else.

Cross-interrogatories:

In answer to the first cross-interrogatory, the witness says: I hav'n't been there this year.

In answer to the second cross-interrogatory, the witness says: On the Henry Probasco, Capt. Wolf; Andes—don't know the captain's name. Those are the only two boats this year.

461 In answer to the third cross-interrogatory the witness says: I didn't see the lights of the Lee until just as they struck. I don't know how far it was above Natchez, or from the bank. It was on the left-hand side going down.

In answer to the fourth cross-interrogatory the witness says: I didn't

hear the Lee whistle. I heard the Potomac whistle before I saw the lights of the Lee. The Potomac blew two blasts.

In answer to the fifth cross-interrogatory the witness says: I don't know how far. I didn't hear the Lee's whistle, and cannot answer the rest of the question.

In answer to the sixth cross-interrogatory the witness says: On the larboard guard, lower deck. I didn't do anything but run out on the guard. I didn't hear the Lee's whistle. I don't know how far apart the boats were when I heard the Potomac's whistle.

In answer to the seventh cross-interrogatory the witness says: About four or five minutes, I think. The heads came in contact—quartering across, the Lee was.

In answer to the eighth cross-interrogatory the witness says: Down-stream. I don't know how the Lee was pointed at that time. At the time they struck our head was pointed down-stream, and the Lee's head was quartering across the Potomac's toward the Natchez shore.

462 In answer to the ninth cross-interrogatory the witness says: After she whistled, right away, I heard the Potomac's backing-bells. I did not hear the engine-bells of the Lee, or the Lee whistle.

In answer to the tenth cross-interrogatory the witness says: I was out on the larboard guard, abreast of the coal-box. I didn't see the lights of the Natchez wharf-boat, and cannot answer the rest of the question. I wasn't thinking about lights, and didn't look at them.

In answer to the eleventh cross-interrogatory the witness says: She went over on the bar. I can't answer the rest of the question.

In answer to the twelfth cross-interrogatory the witness says: I cannot answer that question.

In answer to the thirteenth cross-interrogatory the witness says: I don't know.

In answer to the fourteenth cross-interrogatory the witness says: I did not. I hav'n't seen any copies of any of that testimony.

In answer to the fifteenth cross-interrogatory the witness says: Well, he came over there on to our boat, and him and our captain got

463 to talking. He said that his pilot thought it was the Gill going up. That's all I heard that I remember.

In answer to the sixteenth cross-interrogatory the witness says: I don't know of anything else.

his
SAMUEL + WOODSON.
mark.

Subscribed in my presence and sworn to before me this 31st day of October, A. D. 1872.

R. S. FULTON,
U. S. Com'r, S. D. O.

JACOB WILLIAMSON, being by me first duly sworn to testify the truth, the whole truth, and nothing but the truth in relation to the said cause, in answer to the interrogatories-in-chief and cross-interrogatories hereto attached, desposes as follows:

Examination-in-chief:

In answer to the first interrogatory-in-chief the witness says: My name is Jacob Williamson. I am a fireman in a machine-shop now. I used to be a fireman on the river, and followed that occupation for about thirty-five years, off and on. I ran in the trades from Cincinnati above, most all the time. I have run from Cincinnati to St. Louis, and from Cincinnati to New Orleans, also. I live here in Cincinnati, on the

corner of Pearl and Elm streets. I am fifty-six years old, past. I have always been employed on the river as fireman; never in any other capacity.

464 In answer to the second interrogatory the witness says: Yes, sir. She was then engaged in the New Orleans and Cincinnati trade. She left Cincinnati on a trip to New Orleans. Capt. John Shunk was the master. I don't know the names of the clerks and pilots. Perry Holland was first mate, and William Lynch was second mate. Mr. Hall was head engineer, and Preston Squires was second engineer. Snapper Davis was one of the strikers; I don't know the other one's name. He went down to New Orleans and quit there.

In answer to the third interrogatory the witness says: She had eight firemen, a watchman, a carpenter, two strikers, two engineers, and two mates. I don't know about the pilots. She had a captain. She had a very fair crew. She had two deck hands, and some twenty-five or thirty rousters. She was well equipped. She was provided with every thing she needed for her trip. She had two syphons and three pumps. They were very good officers. She had very good boilers and machinery. This was in December, and the boat came out new only in the summer. She was a new boat. I don't know what her tonnage was. She was a stout and sound boat until she met the accident with the Lee.

In answer to the fourth interrogatory the witness says: She handled and steered well, I think. I didn't hear any complaint. When a boat takes a sheer on him, you can tell by his ringing the bells to the engines to fetch her back again. I didn't hear anything of that kind on her.

465 In answer to the fifth interrogatory the witness says: I was up at the time of her collision with the Lee, and saw the collision. I was on the Potomac as fireman. I was employed on her in that capacity the day she left Cincinnati on that trip. I think it was the 8th of December that she left Cincinnati, bound for New Orleans.

In answer to the sixth interrogatory the witness says: Nothing unusual at all happened on the voyage up to the time of the collision. The officers and crew behaved first-rate on that part of the trip. I didn't hear any disputes between them, and everything passed very pleasant. They all attended to their duties, so far as I know. The boat was navigated and handled very well on the way.

In answer to the seventh interrogatory the witness says: I was, as fireman; I was in the deck-room, on the starboard side, by the engine, just before the collision, and I was near the starboard engine when the boats struck; I was eating my lunch before going to bed. I had just come off watch, and had got my coffee and was eating my lunch. Samuel Woodson and Ephraim Johnson had been with me before the collision, and Ephraim Johnson was with me yet; he was eating there, too.

In answer to the eighth interrogatory, the witness says: I do. I had been on watch in the coal-box, before the fire-doors, a few minutes before I come off watch; it was a little after twelve o'clock, and we change watch at twelve o'clock. I went around the boilers, on the star-

466 board side, to the engine-room, and took my coffee and lunch around with me; it was tolerably cold and windy, and we went around there to be out of the weather; we would be in the other one's way, anyhow, eating. I heard our whistles blow, or the stopping-bells ring; I don't know which it was came first; they were pretty close together, and I can't remember which was first. I looked out, and saw the Lee coming; the whistles were too short for her going to make a landing, and I looked out to see what was the matter. I didn't hear the Lee whistle, and didn't hear anything at all from her. The Lee was on

the right-hand side of the river, and coming up; our backing-bells rung, and Snapper Davis shifted his rods and went to backing. I know Squires shipped his rods, too, but I am not certain whether he backed or not; I think he did, but am not sure about that. I think our boat had backed enough to stop her, and that she was just floating. We wasn't running fast, nohow. It wasn't more than a minute or two then till the Lee struck us on our head on the starboard side—I mean not more than a minute or two after we commenced backing.

In answer to the ninth interrogatory the witness says: The Potomac was in the bend, running down the bend side; I couldn't say how far from the shore. I can't tell the shape of the river along there; there is a bend there, and a sand-bar on the opposite side. We did pass some boat a few minutes before the collision; I didn't see what her name was; she whistled first, and the Potomac answered her;
467 I think she went up on the starboard side of us; it couldn't have been a great piece above the place of collision; I don't know how far; it wasn't but a few minutes anyhow. The Potomac kept on straight down the bend—I don't know how far from the shore. I could see the shore, but wasn't on the larboard side.

In answer to the tenth interrogatory the witness says: I don't know when the pilot first saw her. When I first saw the Lee, she was 800 or 1,000 yards away, as near as I could tell.

In answer to the eleventh interrogatory the witness says: Yes, sir; she blew two whistles, I suppose because the Lee was coming up and didn't blow, and he was afraid she would run into us. I think the Lee was about 800 or 1,000 yards off when the Potomac blowed. I did not hear anything at all from the Lee.

In answer to the twelfth interrogatory the witness says: I won't be certain whether the big bell—the stopping-bell—rung before or after she whistled. I know the backing-bell rung after she whistled. It wasn't but a very little bit after the whistle, not more than three or four minutes after the whistle. When a person gets a little excited, it is hard to tell. I couldn't tell how far off the Lee was then.

In answer to the thirteenth interrogatory the witness says: I know they were both stopped; I know the starboard engine was backed, but I am not certain whether the larboard engine was backed or not. Squires and Snapper Davis were handling the engines. Mr. Hall
468 was sick, and Squires was standing his watch. The engines were stopped immediately after the bells rung; the engineers were both back there on their foot-boxes, and they backed immediately on the starboard engine after the backing-bell—just as soon as he could change the rods. I don't know how far apart the boats were when the engines stopped or when they backed; it's hard to tell after night that way.

In answer to the fourteenth interrogatory the witness says: Yes, sir; I think she was. I didn't notice any change in the Potomac's course up to the time of the collision. She was heading straight down the bend at the time of the blow. The Lee took a sheer, and was pointed quartering across the river toward the Natchez shore at the time she struck us.

In answer to the fifteenth interrogatory the witness says: Our boat was pointed right down the bend, and the Lee quartering across the river toward the bend shore. The bow of the Lee struck our bow on the starboard side, a little forward of the capstan. I think it was about two miles above Natchez, not a great piece. I don't know how far from the east bank of the river.

In answer to the sixteenth interrogatory the witness says: Both boats pointed toward the left-hand shore. The Lee went over to the bar.

In answer to the seventeenth interrogatory the witness says: Yes, sir; it was checked. I couldn't tell, but I hardly think she had
469 sternway at the time. She might have. It would take considerable backing to move her up any.

In answer to the eighteenth interrogatory, the witness says: We went down to the wharf-boat, and a lot of passengers got off. I don't remember about any distress signals; there might have been. There was a good many deck passengers, and there was so much screaming and yelling I don't know what was done.

In answer to the nineteenth interrogatory, the witness says: I don't know about the course of the Lee after leaving the wharf-boat. I wasn't there. She was coming quartering toward us when I saw her. She was running up the bar shore; I don't know how far from the shore. I only know from what I saw after we blowed our whistles, and she was about 800 or 1,000 yards from us then, I suppose.

In answer to the twentieth interrogatory, the witness says: She made no reply to the signal of the Potomac. The Lee came right on to us after the Potomac blew her two whistles. I didn't hear the Lee ring any engine-bells. I didn't notice that she made any change in her course. The Lee was not backing when she struck she Potomac.

In answer to the twenty-first interrogatory, the witness says: I am not. I didn't know the pilot.

470 In answer to the twenty-second interrogatory, the witness says: It was dark. It wasn't foggy. It was dark. There was no moon.

In answer to the twenty-third interrogatory, the witness says: No, sir; I think the Potomac did the best she could; she was loaded very heavy, and was going down stream. I didn't see anything out of the way on our boat. The Potomac's signal-lights were burning. I noticed them when I went off watch, about ten minutes before. I went up stairs to the bar.

In answer to the twenty-fourth interrogatory, the witness says: It was the fault of the Lee, I think. Because she didn't blow her whistle, for one reason; and for another reason, because she didn't keep her proper distance. We were heavily loaded and going down stream, and hadn't much steam on. She was coming up stream, loaded light, and had plenty of steam. She could stop quicker than our boat. She could get out of the way quicker than our boat. Boats are apt to sheer suddenly from a bar shore; they run for deep water. I have been on the river enough to know that they always try to keep boats in the deep water. An up-stream boat is easiest handled. I don't know how high the Lee's guards were out of water. I noticed that she was light.

In answer to the twenty-fifth interrogatory, the witness says: I didn't hear Capt. Cannon, or any officers of the Lee, say anything about it.

471 In answer to the twenty-sixth interrogatory, the witness says: Yes, sir; she was pretty badly injured. It knocked off part of her nosing; it knocked off one of the knees about opposite to the capstan; it knocked her jack-staff down, and knocked a hole in her. They had to put in nineteen new timbers in the hold; and it did other damage. I don't know the cost of it. She was repaired at Algiers on the docks. They put a new stem on her, and recaulked her. They put a new jack-staff on her. We went over there on Tuesday after Christmas, the 27th of December, and we were over there—it lacked two days of being three weeks.

In answer to the twenty-seventh interrogatory, the witness says: No, sir; I never heard who her owners were. It delayed her nearly three weeks at Algiers. It delayed her at Natchez about 14 or 15 hours. It delayed us going down, we couldn't run hardly. We waited about a day at the wharf after putting off the cargo before we went over to Algiers; we were delayed a day there. I was on board all the time she was getting repaired. The boat kept the officers and all the firemen and one deck-hand on her while she lay at Algiers. I don't know what all this damages by delay amounted to. It broke up a wagon, and some freight was lost overboard; some moving plunder was knocked overboard. I worked on her at Algiers.

In answer to the twenty-eighth interrogatory, the witness says:
472 I have told about all. It was a heavy jar; a terrible jar. It knocked Ephraim Johnson down. He lives in Brown County, Ohio, somewhere, I think. It opened her butts and seams. We had to keep two syphons and three pumps going all the way down after the bulkhead was built.

Cross-examination:

In answer to the first cross-interrogatory, the witness says: I haven't been there at all this year.

In answer to the second cross-interrogatory, the witness says: None at all.

In answer to the third cross-interrogatory, the witness says: Between two and three miles, I think. I think the Lee was a mile and a half or three-quarters from the wharf-boat at that time, may be more. The Lee was on the right-hand side of the river as we were going down, and the Potomac on the other, at that time.

In answer to the fourth cross-interrogatory, the witness says: I didn't hear her whistle at all. I saw the Lee when I came out of the coal-box, but thought it was the town, and thought I could get done eating by the time we would get there. It was but a few minutes until I heard the Potomac whistle, and I looked out again. The Potomac blew two blasts, and the Lee none at all that I could hear.

In answer to the fifth cross-interrogatory, the witness says: It was between two and three miles. The Lee was about a mile and a half
473 or a mile and three-quarters, or somewhere along there, from the wharf-boat, when the Potomac whistled. The Lee was on the starboard side of the river, and the Potomac on the larboard, at that time.

In answer to the sixth cross-interrogatory the witness says: In the deck-room, at the starboard engine; I went out of the engine-room, at the side door, upon the guard, and there I saw the Lee. I think she was 800 or 1,000 yards off at that time. I went back into the engine-room, and stayed there until after the backing-bell was rung. At the time they hit I was standing by the starboard engine. The door was open, and I was looking out. I didn't hear the Lee's whistle.

In answer to the seventh cross-interrogatory the witness says: Not many minutes. I don't like to say a thing I don't know; I guess it was five or six minutes; but it's only guessing at it. The bows of the two boats came in contact. The bow of the Lee struck us on our starboard forward quarter.

In answer to the eighth cross-interrogatory the witness says: She was pointed down stream with the bend. The Lee was coming up; she was not pointed right at us at that time; she turned afterwards. At the time of the collision our boat was pointed down stream, and back-

ing on her starboard engine. The Lee was pointing quartering across our bow, toward the left-hand shore.

In answer to the ninth cross-interrogatory the witness says:

474 I am not certain whether I heard the big bells—that is the stopping-bells—before the whistle or after. But after the whistles I know I heard the alarm bell to shift the rods, and then the backing-bell on the starboard engine. I can't tell how long after the whistle she rung her backing-bells—it may have been four or five minutes, or may be not so long, It's all guess work about that. I didn't hear the engine-bells of the Lee, or the Lee whistle. I don't know how far the boats were apart when I first heard our engine-bell after the Potomac's whistle—five or six hundreds yards, may be.

In answer to the tenth cross-interrogatory the witness says: Right by the side of the starboard engine, on deck. I didn't see the lights of the Natchez wharf-boat before the collision.

In answer to the eleventh cross-interrogatory the witness says: On the bar, about a mile above Natchez. I suppose it was over a mile, for she made right for the bar after the collision. It was below the place of collision—I don't know how far.

In answer to the twelfth cross-interrogatory the witness says: I don't know. I don't know where Brown's saw-mill or Brown's garden are.

In answer to the thirteenth cross-interrogatory the witness says: About two miles, I think. I think the Lee sunk about a mile above the Natchez wharf-boat.

In answer to the fourteenth cross-interrogatory the witness says: I did not. I havn't seen any copy of it.

475 In answer to the fifteenth cross-interrogatory the witness says: I didn't hear any conversation like that.

In answer to the sixteenth cross-interrogatory the witness says: I don't know anything else at all.

Mr. JACOB WILLIAMSON.

Subscribed in my presence, and sworn to before me, this 14th day of November, A. D. 1872.

R. S. FULTON,
U. S. Com'r, S. D. O.

UNITED STATES OF AMERICA,
Southern District of Ohio, City of Cincinnati, Ohio, ss:

I, R. S. Fulton, a United States commissioner within and for the southern district of Ohio, living in Cincinnati, Ohio, duly appointed, qualified and commissioned, and acting as such, and duly authorized to take depositions to be used in the courts of the United States, do hereby certify that the preceding depositions of Mahlon Rusk (taken on the 9th and 10th days of September), John Davis (taken on the 23d day of September), Presley Squires (taken on the 24th day of September), Eugene Y. Handlan (taken on the 25th day of September), William Graham (taken on the 28th day of September), William J. Anschutz (taken on the 30th day of September), James G. Hughes (taken on the 2d day of October), Perry Holland (taken on the 6th and 7th days of October), George W. Melona (taken on the 16th day of

476 October), Joseph C. Martin (taken on the 19th day of October), John Fink (taken on the 20th and 21st days of October), John N. Shunk (taken on the 22d, 23d and 24th days of October), William S. Lynch (taken on the 30th day of October), Samuel Woodson (taken

on the 31st day of October), and Jacob Williamson (taken on the 14 day of November), all in the year A. D. 1872, were given by the said witnesses respectively, in answer to the interrogatories-in-chief on behalf of the claimants and respondent, and the cross-interrogatories on behalf of the libellant, hereto attached, and were reduced to writing by myself in the presence of the said witnesses respectively, and were subscribed by the said witnesses respectively in my presence, after the same had been by me read over to the said witnesses respectively; that said witnesses were each and all by me first solemnly sworn to testify the truth, the whole truth, and nothing but the truth in answer to the interrogatories-in-chief and cross-interrogatories hereto attached before the commencement of their said depositions respectively; that the said depositions were taken by and before me, at my office, northwest corner Third and Walnut streets, in the city of Cincinnati, State of Ohio, on the day and dates hereinbefore appearing, and to be read in evidence on behalf of the claimants and respondent in a certain cause pending in the United States district court for the district of Louisiana, in admiralty, wherein John W. Cannon is libellant, and the steamboat Potomac and owners are claimants and respondents.

477 I further certify that I am not of counsel, attorney, or relative of either party to the said suit, or otherwise interested in the result thereof.

Witness my hand and seal of office, given at Cincinnati, this 20th day of November, A. D. 1872.

[SEAL.] R. S. FULTON,
U. S. Com'r, S. D. O.

District court of the United States of America for the district of Louisiana, holding sessions in the city of New Orleans.

To any U. S. commissioner at Cincinnati, Ohio:

Know ye that, reposing special trust and confidence in your integrity and ability, we hereby authorize and require you that you call and cause to come before you R. S. Semple, Jno. N. Shunk, and Jno. Fink, of Cincinnati, Ohio, and Sam'l McBride, W. Oldham, J. J. Ashbury, and other river-men and pilots on the Mississippi River, and them duly examine on the annexed interrogatories and cross-interrogatories on oath, touching and concerning certain matters and things in a case now pending in the said court, wherein John W. Cannon is libellant, and the owners of the steamboat Potomac are defendants; and the same examinations, so taken and reduced to writing, you certify under your hand and seal, and send enclosed to this court without delay, to be read in evidence on the trial of said cause, and send also this writ.

Witness the honorable Edward H. Durell, judge of the district court of the United States of America for the district of Louisiana, at the city of New Orleans, this 9th day of November, A. D. 1872.

[SEAL.] K. LOEW, *Deputy Clerk.*

478 U. S. dist. court, dist. of Louisiana. No. 9760. In admiralty.

JOHN W. CANNON
vs.
STEAMBOAT POTOMAC ET ALS.

Interrogatories to be propounded to R. S. Semple, J. N. Shunk, and John Fink, of Cincinnati, Ohio; and to Samuel McBride, W. H. Oldham, and J. J. Ashbury and others, river-men and pilots on the Mississippi River.

Interrogatory first. What is your name, age, and occupation; and

where do you reside? If you are a pilot on the Mississippi River, please state how long you have been a pilot on said river, and on what part of said river.

Interrogatory second. Do you know what is the usual and proper course for an ascending boat at medium stage of water, after leaving the wharf-boat at Natchez?

Interrogatory third. If you say you do, please describe how she is held and run after she rounds out from the Natchez wharf-boat, going up the river. State whether she holds towards the Louisiana or Natchez side; also describe where the channel is, and whether there is any bar on either side of the river.

Interrogatory fourth: If you say there is a bar on the Louisiana side of the river, please state where it commences, and where it ends, and whether it is a bluff bar or not.

279 Interrogatory fifth. If you can do so, also state what is the usual and proper course for a descending boat, approaching Natchez, when within two miles, or a mile and a half, or a mile of Natchez. How should she be held in the river, and in what distance from the shore, and from which shore?

Interrogatory sixth. Do you know anything about the effect of the collision—which took place between the R. E. Lee and the Potomac, December 21, 1870—upon the Potomac and her cargo? If you answer that you do, then please state whether or not the Potomac sustained any damage to herself or her cargo therefrom.

Interrogatory seventh. If you have answered that the Potomac was damaged by said collision, then state, if you know, in what manner she was so damaged, and describe the extent of it—either as to the boat or her cargo.

Interrogatory eighth. Do you know whether said collision necessitated any repairs to the Potomac? If so, and if you can do so, then specify what repairs were so necessitated by said collision.

Interrogatory ninth. Do you know whether the Potomac was compelled to pay any sum by way of average? If you answer yea, then describe how that happened, and if you can do so, state how much it was.

Interrogatory tenth. If you know, and can do so, state what
480 the Potomac's time was worth per day, about December 20, 1870, to January 1, 1871. Also state how long the Potomac was delayed necessarily by reason of the collision, if you know.

Interrogatory eleventh. State any other facts within your knowledge which would benefit claimant, as fully as if specially interrogated.

GIVEN CAMPBELL, *Proctor.*

Now comes John W. Cannon, libellant in the above-entitled cause, and reserving the benefit of all just and legal exceptions whatsoever to the interrogatories by claimants propounded to the several witnesses named, and to the answers which the said witnesses may make to the same, specially excepting to the testimony of any person whose name is not mentioned in the caption of the said interrogatories, nevertheless propounds the following cross-interrogatories:

1st. Do you know where Brown's saw-mill is? How far is it above the wharf-boat at Natchez?

2d. Do you know where the collision occurred between the Potomac and the Robert E. Lee? How far was it above the wharf-boat at Natchez? How far was it from the point of the collision to Brown's saw-mill, or to the shore opposite Browns's saw-mill?

3d. Do you know where the Lee sunk? Was it nearer to the Louisiana shore or to the Mississippi shore?

4th. Drawing a straight line from Brown's saw-mill to the
481 Louisiana shore, how far from that line would it be to the place where the Lee sunk? Would it be above or below that line?

5th. Drawing a straight line from the wharf-boat at Natchez to the Louisiana shore, how far from that line would it be to the place where the Lee sunk? Would it be above or below that line?

6th. If you are a pilot, state what was the stage of water in the Mississippi River at the time the collision occurred between the Potomac and the Lee.

7th. At the stage of water then existing, how did a boat of the class of the Lee get off from the wharf-boat at Natchez and proceed on her voyage up the river?

8th. Do you not know that, at that time, and generally, the shore for some distance above the wharf-boat at Natchez was occupied by coal-boats and flats, so that boats approaching Natchez from above, or leaving the wharf-boat at Natchez, going up, would be compelled to hold off a considerable distance from that shore?

9th. At that stage of water, how near to the shore on the Louisiana side could a boat of the class of the Lee be safely navigated?

10th. Do you not know that above the wharf-boat at Natchez, on the Natchez side, there are mud lumps which compel boats to stand out some distance from the shore?

11th. Between these mud lumps and the bar on the Louisiana side, what width of river was there at the stage of water existing when this collision occurred, within which a boat could be safely navigated—that is, a boat of the class of the Lee?

482 12th. How far is it, in the usual course of an ascending boat, from the wharf-boat at Natchez to the point above, on the Louisiana shore?

13th. At the time this collision occurred, how far above the wharf-boat at Natchez could the pilot of a descending boat see the lights of the wharf-boat?

14th. Suppose the Lee, having left the wharf-boat at Natchez, was proceeding up the river holding nearer to the Natchez side, how far would she be above the wharf-boat; and how far would the descending boat be above the wharf-boat when the signal-lights of the Lee would be visible to the pilot of the descending boat?

15th. How far would the ascending and the descending boats be apart, when their lights would be visible to the pilots of each respectively?

16th. Coming down the river, at the stage of water then existing, say from a point 2½ to 3 miles above Natchez, how would the jack-staff of the descending boat be pointed? Would it not be held in such a direction that a straight line drawn from the centre of the pilot-house, through the jack-staff, would strike a point on the Louisiana shore some distance below Natchez? Would not this be the direction until the boat commenced rounding in to land at the wharf-boat?

17th. Did not descending boats, at the stage of water then existing, make their landing at the wharf-boat at Natchez by rounding in, and did they not hold out, so as to be, by the time they were at a proper distance, in a position to round in and make the landing?

18th. What parts of the two boats respectively, the Potomac
483 and the Lee, came in contact? On which side of the Lee, and how far aft of her jack-staff, was the injury to her? What was the extent of the wound? On which side of the Potomac, and how far aft of the jack-staff, was the injury to her? Describe that injury. Did the jack-staff of either boat fall? If so, which boat?

19th. What time elapsed between the collision and the arrival of the Potomac at New Orleans? On what day did she arrive at and on what day did she depart on her up-trip from New Orleans?

20th. If you say anything about repairs to the Potomac, state where, when, and by whom the repairs were made; and if you say anything about "average," state when, where, and by whom the average was adjusted.

R. H. MARR,
Proctor for Cannon.

UNITED STATES OF AMERICA,
Southern District of Ohio, City of Cincinnati, ss:

I, R. S. Fulton, a United States commissioner *of the United States* within and for the sixth judicial circuit and southern district of Ohio, duly appointed by the honorable the said circuit court of the United States, and duly qualified and commissioned and acting as such, and duly authorized to take acknowledgments of bail, to administer oaths, and to take depositions to be used in cases depending in the courts of the United States of America, residing in the city of Cincinnati, in said district, do certify that by virtue of the annexed commis-
484 sion, issued out of the honorable the United States district court for the district of Louisiana, I caused to appear before me, at my office in Cincinnati, on the days hereinafter appearing, Isaac D. Gough, John A. Townley, R. S. Semple, F. A. Antenheimer, James M. Seeds, O. D. Whiten, William H. Harrisson, and J. Washington Tenley, and George McLaughlin, whose depositions hereinafter appear, witnesses on behalf of the defendants in a certain cause now pending in the United States district court for the district of Louisiana, wherein John W. Cannon is plaintiff, and the steamboat Potomac and others are defendants, No. 9760, in admiralty.

The said witnesses having been by me carefully examined, cautioned and duly sworn to testify the truth, the whole truth, and nothing but rhe truth, answered as follows to the interrogatories and cross-interrogaries propounded to *him*:

ISAAC D. GOUGH, being by me first duly sworn to testify the truth, the whole truth, and nothing but the truth, in answer to the interrogatories-in-chief and cross-interrogatories hereto attached, deposes as follows, to wit:

Interrogatories-in-chief:

In answer to the first interrogatory-in-chief, the witness says: My name is Isaac D. Gough. I am forty years old next spring. I am a steamboat pilot by occupation. I reside in Newport, Kentucky. I have been a pilot on the Ohio and Mississippi Rivers, from the port of Cincinnati to the port of New Orleans, for about eighteen years.
485 In answer to the second interrogatory, the witness says: I do; I think I do.

In answer to the third interrogatory, the witness says: We usually hold towards the Louisiana point until we get out towards the bar, or to the left of the channel. She holds to the Louisiana side. There is a bar on the Louisiana side, and mud lumps in the bend on the Mississippi side. The channel is about at an equal distance from the bar and the bend side. After we get over next to the bar, then we usually make the shape of the bar all the way round coming up stream, and at a medium stage of water.

In answer to the fourth interrogatory, the witness says: The foot of

the bar commences at the upper part of Vidalia, a short distance below the wharf-boat at Natchez, and the head of the bar is about three or four miles above Natchez. I don't call it a bluff bar, but still it is deep water next to the bar. It is deep water along the bar until you get up to the head of the Natchez bluffs. You can run pretty close to the bar from the Natchez wharf-boat for about two miles above.

In answer to the fifth interrogatory, the witness says: The usual course for a descending boat at two miles above Natchez is to run the bent side of the river. From about that distance we begin to hold out more to the middle of the river, to avoid the mud lumps in the bend. The distance is a matter of the pilot's judgment. She makes the shape of the bend in the middle of the river as she gets down toward the
486 wharf-boat. If she is within a mile of the wharf-boat, she would be out about the middle of the river. I should judge it was about three hundred yards from the bar on one side of the river to the shore on the other.

In answer to the sixth interrogatory, the witness says: I do not.

In answer to the seventh interrogatory, the witness says: I know nothing about that.

In answer to the eighth interrogatory, the witness says: I know nothing about that.

In answer to the ninth interrogatory, the witness says: I know nothing about that.

In answer to the tenth interrogatory, the witness says: I know nothing about that.

In answer to the eleventh interrogatory, the witness says: In all cases, according to the inspectors' rulings, and according to the understanding and usage among pilots, it is the duty of the ascending boat to signal first. If two boats were meeting at a point a mile, a mile and a half, or two miles above Natchez, the proper course for the ascending boat would be to pass up on the bar side, and for the descending boat to pass down on the bend side, or Mississippi side. That is the proper way to meet opposite Brown's saw-mill, or anywhere along there.

Cross-interrogatories:

In answer to the first cross-interrogatory, the witness says: Yes. I think it is about one mile from the wharf-boat to Brown's saw-mill.
487 In answer to the second cross-interrogatory, the witness says: I do not know.

In answer to the third cross-interrogatory, the witness says: I do not.

In answer to the fourth cross-interrogatory, the witness says: I know nothing about that.

In answer to the fifth cross-interrogatory, the witness says: I know nothing about that.

In answer to the sixth cross-interrogatory, the witness says: I wasn't down there, and don't know certainly. I think there was about (12) twelve feet on the bar at the head of Glasscock's Island. That is about a medium stage.

In answer to the seventh cross-interrogatory, the witness says: I couldn't say how she did leave the wharf-boat. After leaving the wharf-boat, she would hold to the Louisiana point-bar, or and proceed up the river on the bar side of the channel.

In answer to the eighth cross-interrogatory, the witness says: Yes; that is usually the case. I don't know how it was at that particular time.

In answer to the ninth cross-interrogatory, the witness says: That is a question I can hardly answer. I never had occasion to land
488 against the bar, and never saw a boat land against it; but I think a boat could land against it at a medium stage. I think a boat could run right close to the bar. There is some danger of boats running off from a bar if they get too close, and for that reason we don't ran right close to a bar unless we are compelled to.

In answer to the tenth cross-interrogatory, the witness says: Yes; I have already so stated.

In answer to the eleventh cross-interrogatory, the witness says: Well, at a medium stage, I would say that she would have three hundred yards of good water from the lumps to the bar.

In answer to the twelfth cross-interrogatory, the witness says: I don't understand that question at all. I don't know what is intended. If it is intended to ask how far she would run before she would get to the bar side of the channel, I couldn't answer—it would depend on the speed of the boat, I suppose. A pilot might hold her so that she would run a mile before she would fall into the bar side of the channel, or she might fall into it in a half or a quarter of a mile. A boat of the size and speed of the Lee would make what is called a "long crossing," usually; and not go square across, if it could be avoided.

In answer to the thirteenth cross-interrogatory, the witness says: I wasn't there, and don't know.

489 In answer to the fourteenth cross-interrogatory the witness says: I can't answer that question. It would depend upon how far the Potomac was above the wharf-boat and where they were to meet; it would depend upon the night. You can't tell without fixing the position of one or the other boats, and then you couldn't tell how far they were from the wharf-boat with any certainty. I don't comprehend the question exactly.

In answer to the fifteenth cross-interrogatory the witness says: It would depend upon the state of the atmosphere; some nights you can see a light a great ways off, and some you can't see it all. It is a question it is impossible to answer.

In answer to the sixteenth cross-interrogatory the witness says: You are coming around the shape of the bend and the natural shape of the river would make you point toward the Mississippi shore. You would not be pointed in the same direction all the way until you round to to go in to the wharf-boat. You gradually wear out of the bend as you get farther down.

In answer to the seventeenth cross-interrogatory the witness says: Yes; that is the usual way. They generally round in and, if nothing is in the way, they stand out from the Mississippi shore. If a man saw a boat coming he wouldn't stand out so far.

In answer to the eighteenth cross-interrogatory the witness says: I don't know.

490 In answer to the nineteenth cross-interrogatory the witness says: I don't know, sir.

In answer to the twentieth cross-interrogatory the witness says: I don't know.

And further deponent saith not.

J. D. GOUGH.

Subscribed in my presence and sworn to before me this 5th day of December, A. D. 1872.

R. S. FULTON,
U. S. Com'r, S. D. O.

JOHN A. TOWNLEY, being by me first duly sworn to testify the truth, the whole truth, and nothing but the truth in relation to the matters inquired of by the interrogatories-in-chief and cross-interrogatories hereto attached, deposes as follows:

Interrogatories-in-chief:

In answer to the first interrogatory-in-chief the witness says: John A. Townley is my name; age, forty-one; I am secretary of the Commercial Insurance Company, by occupation; I reside in Cincinnati, Ohio; I am not a pilot and never have been.

The 2d, 3d, 4th, 5th, 6th, 7th, 8th, 9th, and 10th interrogatories-in-chief have been asked the witness, to each and all of them the witness answers: As to those matters I have no personal knowledge.

In answer to the eleventh interrogatory the witness says: After the collision Capt. Cannon came to Cincinnati with his special and
491 average bills. His boat was insured in Cincinnati. The bills were submitted by Cannon to the underwriters, and a committee of three was appointed by them to examine his bills and make up the amount due him on special and general average. Capt. Cannon was before that committee some two days to explain his bills, damages, and loss. The committee took the bills and I made the statement of the special and general average. The statements were made and shown to Capt. Cannon and settlements were made by him with the insurance companies according to those statements. These statements were handed to Capt. Eckert, of the Western Insurance Company, to have a copy made to be sent to Capt. Cannon, and the statements were not returned to me, and I have not seen them since. I attach a copy of the policy of the Commercial Insurance Company on the R. E. Lee, under which this loss was paid, marked Exhibit A. Capt. Cannon never consulted our company in relation to the suit which is pending in New Orleans, I understand, against the Potomac, and had no authority to bring such suit on our account, and our company did not desire such suit to be brought. I was secretary of the Commercial Insurance Company at that time, and have been ever since, and was a member of the committee to whom Cannon submitted his bills. Our company paid to Captain Cannon, on account of said general and special averages, our proportionate share amounting to seven hundred and forty-two dollars and ninety-five cents.

This was for the damage and expenses which Capt. Cannon
492 claimed had been occasioned to the Lee in her collision with the Potomac just above Natchez in December, 1870. The steamer R. E. Lee was valued in the policies at seventy-five thousand dollars ($75,000), and was insured for fifty thousand dollars ($50,000). The whole amount of loss as allowed by said committee in general and special average was eleven thousand one hundred and forty-four dollars and twenty-five cents ($11,144.25). We paid our company's share Feb. 23, 1871. Our company subsequently assigned to the owners of the steamboat Potomac any right and interest, if any there was, in and to said sum so paid, and all remedies and rights resulting therefrom, and executed the paper which I attach hereto marked Exhibit B. That paper was signed by Mr. Harbeson, the president of our company. Our company has no seal and none is attached to our policies or other documents. I don't know of any Cincinnati insurance company having risks on the Lee which uses a seal in executing policies or other documents. The Cincinnati companies do not usually have a seal. I have examined the signatures to Exhibit B and know all of them are the true signatures of the officers, and know that all of those officers occupied the positions which they are represented to occupy, I except

Mr. Bishop's signature, with which I am not acquainted, and I don't know that he was president pro tem. at that time, and, in my opinion, those officers would have the authority to execute such a paper.

Since testifying as above, the statement of the special and general average made up by me, upon which settlements were made be-
493 tween Capt. Cannon and the Cincinnati underwriters, and which, as I have said, was handed to Capt. Eckert, has been found and is now before me. I attach a true copy of it to my deposition marked Exhibit C. I have no right to attach the original.

Cross-interrogatories:

The 1st, 2d, 3d, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, 12th, 13th, 14th, 15th, 16th, 17th, 18th, 19th, and 20th cross-interrogatories having been read over to the witness he answers: As to the matters inquired of in each and all of these cross-interrogatories I know nothing whatever.

J. A. TOWNLEY.

Subscribed in my presence and sworn to before me this 6th day of December, A. D. 1872.

R. S. FULTON,
U. S. Com'r, S. D. O.

494 [Here appears Exhibit A, Exhibit B, and Exhibit C, as part of deposition of J. A. Townley.]

494*a* EXHIBIT A.

(Signed) R. S. FULTON,
U. S. Com'r.

Cin'ti, O., Dec. 6th, 1872.

COMMERCIAL INSURANCE CO., OF CINCINNATI, OHIO.

No. 2815. Vessel, Robert E. Lee. Proposition No. 24470. Valuation, $75,000. Sum insured, $5,000. Premium, $500. On account of John W. Cannon. Loss, if any, payable, assured.

This policy of insurance witnesseth, that the Western Insurance Company of Cincinnati, by these presents, do cause John W. Cannon to be insured in the sum of not exceeding five thousand dollars, lost or not lost, upon the steamboat Rob't E. Lee, wherever she is in safety at noon of the 31st day of October, 1870, and from thence to noon of the 31 day of October, 1871, when this policy shall expire, unless sooner terminated or made void by conditions hereinafter expressed.

With permission to navigate the Ohio & Mississippi Rivers and their tributaries, excepting the Missouri, Arkansas, and Red Rivers, coal-oil clause waived.

Underwriter's obligations.

This company having been paid the consideration for this insurance, at the rate of 10 per cent., for the term of this policy, the said steamboat, Robert E. Lee, hereby insured, being valued at seventy-five thousand dollars.

Touching the perils, which the said insurance company is content to bear, and take upon it, under this policy, they are of the seas, lakes, rivers, canals, fires, and jettisons, that shall come to the damage of said vessel, or any part thereof. And, in case of loss, such loss to be paid in sixty days after proof thereof, proof of interest and adjustment exhibited to the assurers, all sums owing by the assured to the company being first deducted, or secured to the satisfaction of the assurers, before such loss shall be paid. But no loss, by special average, shall in any case be paid unless the necessary repairs required solely by the disaster (exclusive of the cost of taking the vessel on the docks or hauling her out on marine ways,

the cost of dock or railway fees while being repaired, and the cost of ascertaining and proving the loss) shall amount to five per cent. on the value of said vessel as specified in this policy.

This policy shall become void if any further insurance has been or shall be made on said vessel which, together with this insurance, shall exceed the sum of fifty thousand dollars, or upon any assignment of this policy, or charter of said vessel, unless notice is given to this company, and the same be approved and indorsed hereon, in writing by the company; also during any time said vessel shall carry hemp on deck, unless the same be covered by bagging, or unslacked lime in the hold, or cotton on the hurricane deck; and also in case the note or other obligation given for the premium herefor be not paid within fifteen days after maturity and demand and remain void during the time the same shall be overdue and unpaid. It is also agreed that the insurance, by this policy, shall cease during the time said vessel shall be taken and held in possession or custody, under any proceedings in law or equity, except during the first five days after seizure. No assignment or transfer hereof shall, in any case, relieve the insured or property hereby insured from any or all of the conditions expressed in this policy; and a violation or non-compliance with any of such conditions, either by the assignee or assignor, before or after the assignment, shall vitiate this policy.

Warranted by the assured, that this company shall be free from all claim for loss or damage arising from or caused by theft, barratry, robbery, civil commotion, war or piracy, or during any time said vessel shall be seized and taken possession of or detained by any act of the United States Government, or other legally excluded causes; from damage that may be done by the vessel hereby insured to any other vessel or property; from any loss or damage occasioned by said vessel being improperly laden, by the bursting of boilers, the collapsing of flues, explosion of gunpowder, the derangement or breaking of the engine or machinery, or any consequence resulting therefrom, unless the same be caused by unavoidable external violence; from any loss or damage occasioned by ice, between Bissell's Point and Picotte street, in the port of St. Louis, Mo.; from loss or damage occasioned by the use on board of coal oil or spirit gas in any form; from any consequences of said vessel having been engaged in an illicit or prohibited trade at any time whatever; and from any loss caused by the use of an open light of any kind in the hold; that there shall be no abandonment, as for a total loss, on account of said vessel grounding or being otherwise detained, or in consequence of any loss or damage unless the injury sustained be equivalent to fifty per centum of the agreed value in this policy; that the aforesaid vessel is and shall be at all times during the continuance of this policy, tight and sound, sufficiently found in tackle, and appurtenances thereto, competently provided with master, officers, and crew, and in all other things and means necessary for the safe employment thereof; and that said vessel shall be run and navigated upon the aforesaid privileged waters, as is usual for boats of her class, in the usual prosecution of business; and that this policy shall be null and void, while said vessel shall be unseaworthy, or condemned as unseaworthy, except while proceeding to a port for repairs, and during the time of such repairs; that in the night-time said vessel shall show in a conspicuous place one or more lights, so as to warn and give notice to

Obligations of the assured.

boats and approaching vessels; and that, while in port or laid up, at least two competent watchmen shall be employed, one of whom shall be on duty at all times; that in all cases of loss or damage the assured shall furnish to said company proofs of the same within thirty days from the date thereof; and all claims under this policy shall be barred, unless prosecuted within one year from the same date; and no loss shall be paid unless the assured shall give immediate notice in case of accident or loss to the company; and that the liability of this company for all losses during the continuance of this policy, shall not in the aggregate exceed the sum hereby insured.

In case of any loss or misfortune, resulting from any peril insured against, the party insured shall use every effort for the safe-guard and recovery of said vessel, and if recovered to cause the same to be forthwith repaired; and in case of neglect or refusal on the part of the assured agents or assigns to adopt prompt and efficient measures for the safeguard and recovery of said vessel, then the said insurers are hereby authorized to interpose and recover said vessel, and cause the same to be repaired for account of the insured, to the charges of which the said insurance company will contribute, in proportion as the sum herein insured bears to the agreed value in this policy; but in no case whatever shall the assured have the right to abandon, until it shall be ascertained that the recovery and repairs of said vessel are impracticable, nor sell the wreck or any portion thereof without the consent of this company; and the acts of the assured or assurers or of their joint or respective agents, in preserving, securing, or saving the property insured, in case of danger or disaster, shall not be considered or held to be a waiver or acceptance of an abandonment. In case of accident rendering repairs necessary, the master or owner shall cause the said vessel to be surveyed by a competent inspector, who shall, under oath, note particularly the damage sustained, and the repairs required thereby. All claims for repairs shall be accompanied by the vouchers, and by the oath or affirmation of the master that such expenses were actually incurred, and made necessary by the accident which may have happened to said vessel.

Adjustment of losses.

No deduction will be made from claims for repairs to the hull or machinery of said vessel, during the first two years from the date of her original custom-house survey; but from all claims for repairs to the cabin, or tackle, or apparel, or furniture, or for replacing the same, the assured shall deduct one-third, that being the agreed difference in value between new and old materials, and the same deduction shall be made from claims for repairs to the hull and machinery, after the first two years, as aforesaid.

No allowance will be made for wages or provisions paid or furnished to officers or crew while the vessel is detained by any accident, or while undergoing any repairs, except for the time they are actually employed for the safety of the vessel and cargo, for which they will be included in the general average account. Whenever this company shall pay any loss, the assured agrees to assign over to said company all right to recover satisfaction therefor from any other person or persons, town or other corporation, or the United States Government, or to prosecute therefor at the charge and for account of the company, if requested. And the said company shall be entitled to such proportion of said damages recovered as the amount insured by them bears to the valuation of said vessel.

In case of return premium, at the request of the assured, a deduction shall only be made on the whole months of unexpired time; the earned time to be charged for at short rates.

In witness whereof the Western Insurance Company of Cincinnati have caused these presents to be signed by their president, and attested by their secretary, at their office in the city of Cincinnati, State of Ohio, this 31st day of October, 1870.

, *President.*

, *Secretary.*

For value received, hereby transfer, assign, and set over unto and assigns, all right, title, and interest in this policy of insurance, and all benefit and advantage to be derived therefrom, subject to the deduction therefrom of all claims due this company, at this date, by the assignor, and thereafter by the acceptor.

Witness hand and seal this day of

[SEAL.]

Sealed and delivered in presence of—

Approved.

Secretary.

For value received, hereby transfer, assign, and set over unto and assigns, all right, title, and interest in this policy of insurance, and all benefit and advantage to be derived therefrom, subject to the deduction therefrom of all claims due this company, at this date, by the assignor, and thereafter by the acceptor.

Witness hand and seal this day of

[SEAL.]

Sealed and delivered in presence of—

Approved.

Secretary.

For value received, hereby transfer, assign, and set over unto and assigns, all right, title, and interest in this policy of insurance, and all benefit and advantage to be derived therefrom, subject to the deduction therefrom of all claims due this company, at this date, by the assignor, and thereafter by the acceptor.

Witness hand and seal this day of

[SEAL.]

Sealed and delivered in presence of—

Approved.

Secretary.

494*b* EXHIBIT B.

(Signed) J. A. TOWNLEY.

(Signed) R. S. FULTON,
U. S. Com'r.

CIN'TI, *December 6th*, 1872.

Whereas, heretofore, to wit, on the 21st day of December, 1870, the steamer Robert E. Lee, bound up, came in collision with the steamer Potomac, bound down, at a point about a mile above the city of Natchez, Mississippi, during the night; and whereas the undersigned

were insurers of the Robert E. Lee in the amounts hereinafter named, and have recognized the loss and paid the sums thereon which are set opposite the amount by them so insured, to the owners of the Robert E. Lee at the time; and whereas they are informed that suit has been brought by John W. Cannon, as owner of the Robert E. Lee, in the district court of the United States for the district of Louisiana, against the steamer Potomac, her boats, tackle, and furniture, and against all persons intervening for their interests therein, and against J. N. Shunk, captain of said steamer Potomac, in a cause of collision, civil and maritime; and whereas the undersigned desire no suit brought for or on their account, and have never authorized the bringing
494c of any, and have given the said Cannon no authority to prosecute said suit so far as their interests are concerned:

Now this is to witness that in consideration of the premises and one dollar, and other good an' valuable considerations, to each of the undersigned moving, they do, each company for itself, release, discharge, and set over to the owners of said steamer Potomac and the said Shunk any and all right which they have in and to any damage or claim of damage (if any there be), whether legal or equitable, growing out of said collision, and authorize them to use the same by way of defence, or otherwise, in and to the said suit.

In testimony whereof the said several companies have hereunto set there hands & affixed their seals, wherever they have seals, by their president or secretary, they being in each duly authorized so to do.

494d Name of companies.	Amount insured.	Amount paid.
Eureka F. & M. Ins. Co., Ed. R. Townley, s'c'y	$5,000	752 95
Union Ins. Co., Wm. Richards	3,500	520 00
Enterprise Ins. Co., John W. Hartnett, pres't	5,000	742 95
National Insurance Company, by John Burgogne, pres't	3,000	445 80
Fireman's Ins. Co., per H. E. Spencer, pres't	3,000	445 80
Western Ins. Co., per J. T. Colling, sec'y	5,000	742 95
Commercial Ins. Co., per M. L. Harbelon, pres't	5,000	742 95
Crescent Ins. Co., F. H. Reno, sec'y	2,500	371 47
Burnet Insurance Co., by George Taylor, pres't	2,500	371 47
American Insurance Company, p'r S. Morse, pres't	5,000	742 95
T. Dean, pres't Globe Ins. Co	5,000	742 95
Farmers' Ins. Co., M. Hollingshead, sec'y	2,500	371 47
Ohio Valley Ins. Co., per R. M. Bishop, pres't pro temp	3,000	445 80

494e EXHIBIT C.

(C.) *Special average charges. R. E. Lee.*

Vallett Dry Dock Co	4,831 69
McAdams & Co	1,359 50
John Hennessy	30 08
Do	51 95
Hugh Williams	180 55
Moffett & Brown	14 58
A. Hauch	187 94
M. Fink & Co	4 25
J. E. Burton	25
D. C. McCann & Son	519 69
E. Pillsbury	13 11
Bostick & Seymour	100

Jas. Buist: Laying damage		210
Putting up capstan		100
Shoring up boiler beams		160
Repairing cylinder timbers		107 50
Building bulkhead		127 40
Sundry carpenters, &c		560 45
Jno. W. Cannon		300
		8,883 69
⅓ off new for old		2,961 23
		5,922 46
Wharfage at N. O		18
Labor cleaning hold		625 05
J. S. McDonald		212 50
		6,778 01

494*f* *General average charges st'r R. E. Lee.*

John Maloney		96
Protector No. 3		75
W. S. Pointdexter		10
St'r Dahlia		200
Steam fire-engine		150
H. M. Gastrell		37 49
A. A. Maginnis		32 50
A. Brown & Co		98 66
L. F. Carvey		27 25
Drayage		3
Telegraphing		15 70
Fred. Parsons		15
Cooper & Robertson		60
Wages and expenses while sunk		2,050
St'r Osage		612
St'r Grand Era		400
		3,882 60
Lumber & labor building forecastle	450	
" " repairing deck	275 50	
	725 50	
⅓ off new for old	241 83	
		483 67
		4,366 27

494*g* *Apportionment of general & special average st'r R. E. Lee.*

General average	4,336 27
Special "	6,788 01
	11,144 28

Apportionment:

Western Ins. Co., $5,000 pays	742 95
Globe " " 5,000 "	742 95

Commercial	" "	5,000	"	742 95
National	" "	3,000	"	445 80
Eureka	" "	5,000	"	742 95
American	" "	5,000	"	742 95
Crescent	" "	2,500	"	371 47
Firemen's	" "	3,000	"	445 80
Enterprise	" "	5,000	"	742 95
Farmers'	" "	2,500	"	371 48
Union	" "	3,500	"	520
Ohio Valley	" "	3,000	"	445 80
Burnet	" "	2,500	"	371 47
Owners	" "	25,000	"	3,714 76
				11,144 28

Copy.

J. A. TOWNLEY.

Exhibit C compared with the original by the deponent and me and found to be true copy.

(Signed) R. S. FULTON,
U. S. Com'r.

495 R. S. SEMPLE, being by me first duly sworn to testify the truth, the whole truth, and nothing but the truth in relation to the matters inquired of in the interrogatories-in-chief and cross-interrogatories hereto attached, deposes as follows, to wit:

Interrogatories-in-chief:

In answer to the first interrogatory, the witness says: My name is R. S. Semple; age, thirty-six; and occupation, that of merchant. I reside in Covington, Kentucky. I am not a pilot.

In answer to the 2d, 3d, 4th, and 5th interrogatories, the witness says: I know nothing about that.

In answer to the sixth interrogatory, the witness says: What I know about that is from hearsay. I know we had to pay some damages occasioned to the Potomac by that collision; but what I know of the collision and the damage sustained by it I have obtained from others.

In answer to the seventh interrogatory, the witness says: What I know as to that is hearsay:

In answer to the eighth interrogatory, the witness says: I only know from the amount of money the boat had to pay for her repairs, as charged on the books of the Potomac by her clerk, Devinney, and Capt. Shunk. Owing to sickness, Mr. Devinney was unable to make a statement to the owners, and upon his return here was placed in the insane asylum at Carthage, in this county, where he remained several
496 months. All the bills and papers connected with that trip and several succeeding trips have been lost, and though diligent search has been made, I am yet unable to find them. During last summer the boat was chartered to the United States Mail Line Company, and during the transfers of the crews, the box containing the boat's bills and papers was lost.

In answer to the ninth interrogatory, the witness says: The steamboat Potomac was compelled to pay in general average $889.11 on account of the boat, and $51.82 on account of the freight list. The cargo paid $1,375.34, nearly all of which our agent at New Orleans writes me

has been collected from the owners of the cargo. I desire to say that these items are included, and form part of, or enter into, in some form or other, the bill attached to Captain Shunk's deposition, taken October 24th, 1872, as Exhibit C. I do not claim this as additional. Some of the wages of the crew, and part of the expense of building the bulkhead, etc., went into general average.

In answer to the tenth interrogatory, the witness says: One hundred dollars per day. I only know from the report of the crew, as to how long she was delayed, and from the length of the time she was gone until she returned, and from the reports of her arrival at and departure from New Orleans. It was twenty-one days that she was detained by reason of the collision. The boat was new, and that was her fair charter value. We wouldn't have chartered her for $100 per day at that time.

497 We chartered her in the summer here, when the water was low and business dull, for $100 a day, and at that time there was a good business season. She would have made us three hundred dollars a day on that trip except for this accident with the Lee and consequent detention, as it was her best business season.

In answer to the eleventh interrogatory, the witness says: I know that the insurance companies here having risks on the Lee at that time, after an investigation of the matter, did not consider that the steamboat Potomac was in fault, and have made an assignment of any benefit or right that they might have, growing out of the payment of a portion of the loss caused by the collision to Capt. Cannon. The assignment is attached to the deposition of John A. Townley, marked Exhibit B. I know the signatures of all the officers whose names are affixed to the assignment, and I know that they all signed it, and I know that they were all the proper and authorized officers to execute such a paper at the time it was executed. I have been more or less familiar with the customs and usages of underwriters at Cincinnati and with these insurance companies and their officers for ten years. I know that they do not use seals. I am familiar with their modes of doing business and the officers who are authorized to act.

I attach to my deposition copies of the policies issued on the steamboat R. E. Lee by the Cincinnati underwriters, as follows:

American Insurance Company ..... marked A
Union Insurance Company ..... " B
Farmers' Insurance Company ..... " C
498 Burnet Insurance Company ..... marked D
Eureka Insurance Company ..... " E
Globe Insurance Company ..... " F
Enterprise Insurance Company ..... " G
Crescent Insurance Company ..... " H
National Insurance Company ..... " I
Western Insurance Company ..... " K
Ohio Valley Insurance Company ..... " L

These copies have been furnished me on application by the above-named companies respectively, and were made out from the office records of those companies.

I made a statement of the expenses which the steamboat Potomac incurred by reason of her collision with the Lee, and it is attached to Capt. Shunk's deposition in this case, marked Exhibit C. I made up that statement from entries in the Potomac's books in the handwriting of the clerk. I know the Potomac was permanently injured, but how much I am unable to say, as I am not a practical boatman. From my

general knowledge of steamboats, I know that all steamboats are permanently injured by such accidents.

Cross-examination:

Having carefully read over to the witness the 1st, 2d, 3d, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, 12th, 13th, 14th, 15th, 16th, 17th, 18th, and 19th cross-interrogatories, he says: I am not a pilot; I was not on either boat at the time; I am not familiar with the river, and have no personal knowledge of any of those matters inquired of.

499 In answer to the twentieth cross-interrogatory, the witness says: The bills show that the Potomac, as to the principal permanent repairs, was repaired by the Southern Dry Dock Company at New Orleans, and the general average was made up by Clark & Ivy, of New Orleans.

R. S. SEMPLE.

Subscribed in my presence and sworn to before me this 10th day of February, 1872.

R. S. FULTON,
U. S. Com'r, S. D. O.

500 [Here appears copies of insurance policies issued on the steamboat R. E. Lee, viz:

American Insurance Company	marked	A
Union Insurance Company	"	B
Farmers' Insurance Company	"	C
Burnet Insurance Company	"	D
Eureka Insurance Company	"	E
Globe Insurance Company	"	F
Enterprise Insurance Company	"	G
Crescent Insurance Company	"	H
National Insurance Company	"	I
Western Insurance Company	"	K
Ohio Valley Insurance Company	"	L

Made a part of deposition of R. S. Semple.]

500a AMERICAN INSURANCE COMPANY,

[Cut of steamboat.]

OF CINCINNATI, OHIO.

No. 942. Vessel, Rob't E. Lee. Proposition No. 10991. Valuation, $75,000. Sum insured, $5,000. Premium, $500.00. On account of present owners. Loss, if any, payable to John W. Cannon.

This policy of insurance witnesseth that the National Insurance Company of Cincinnati by these presents do cause John W. Cannon to be insured in the sum not exceeding five thousand dollars, lost or not lost, upon the steamboat Rob't E. Lee, wherever she is in safety at noon of the 31st day of October, 1870, and from thence to noon of the 31st day of October, 1871, when this policy shall expire, unless sooner terminated or made void by conditions hereinafter expressed.

With permission to navigate the Ohio & Mississippi Rivers and their tributaries, excepting the Missouri, Arkansas, & Red Rivers.

Underwriter's obligations.

This company having been paid the consideration for this insurance at the rate of ten per cent. for the term of this policy, the said steamboat Rob't E. Lee, hereby insured, being valued at seventy-five thousand dollars.

Touching the perils which the said insurance company is content to bear and take upon it, under this policy, they are of the seas, lakes, rivers, canals, fires, and jettisons that shall come to the damage of said vessel or any part thereof. And, in case of loss, such loss to be paid in sixty days after proof thereof, proof of interest and adjustment exhibited to the assurers, all sums owing by the assured to the company being first deducted or secured to the satisfaction of the assurers before such loss shall be paid. But no loss by special average shall in any case be paid, unless the necessary repairs required solely by the disaster (exclusive of the cost of taking the vessel on the docks or hauling her out on marine ways, the cost of dock or railway fees while being repaired, and the cost of ascertaining and proving the loss) shall amount to five per cent. on the value of said vessel as specified in this policy.

This policy shall become void, if any further insurance has been or shall be made on said vessel, which, together with this insurance, shall exceed the sum of fifty thousand dollars, or upon any assignment of this policy or charter of said vessel, unless notice is given to this company, and the same be approved and endorsed hereon, in writing, by the company; also during any time said vessel shall carry hemp on deck, unless the same be covered by bagging, or unslacked lime in the hold, or cotton on the hurricane deck, and also in case the note or other obligation given for the premium herefor, be not paid within fifteen days after maturity and demand, and remain void during the time the same shall be over-due and unpaid. It is also agreed that the insurance, by this policy, shall cease during the time said vessel shall be taken and held in possession or custody, under any proceedings in law or equity, except during the first five days after seizure. No assignment or transfer hereof, shall in any case, relieve the insured or property hereby insured, from any or all of the conditions expressed in this policy; and a violation or non-compliance with any of such conditions, either by the assignee or assignor, before or after the assignment, shall vitiate this policy.

Warranted by the assured, that this company shall be free from all claim for loss or damage arising from or caused by theft, barratry, robbery, civil commotion, war, or piracy, or during any time said vessel shall be seized and taken possession of or detained by any act of the United States Government, or other legally excluded causes; from damage that may be done by the vessel hereby insured to any other vessel or property; from any loss or damage occasioned by said vessel being improperly laden, by the bursting of boilers, the collapsing of flues, explosion of gunpowder, the derangement or breaking of the engine or machinery, or any consequence resulting thereform, unless the same be caused by unavoidable external violence; from any loss or damage occasioned by ice between Bissell's Point and the bridge piers, in the port of St. Louis, Mo., from the loss or damage occasioned by the use on board of coal oil, or spirit gas, in any form; from any consequences of said vessel having been engaged in any illicit or prohibited trade at any time whatever; and from any loss caused by the use of an open light of any kind in the hold; that there shall be no aban-

Obligations of the assured.

donment, as for a total loss, on account of said vessel grounding or being otherwise detained, or in consequence of any loss or damage unless the injury sustained be equivalent to fifty per centum of the agreed value in this policy; that the aforesaid vessel is, and shall be, at all times during the continuance of this policy, tight and sound, sufficiently found in tackle and appurtenances thereto, competently provided with master, officers, and crew, and in all other things and means necessary for the safe employment thereof; and that said vessel shall be run and navigated upon the aforesaid privileged waters, as is usual for boats of her class, in the usual prosecution of business; and that this policy shall be null and void while said vessel shall be unseaworthy, or condemned as unseaworthy, except while proceeding to a port for repairs, and during the time of such repairs; that in the night time said vessel shall show in a conspicuous place one or more lights, so as to warn and give notice to boats and approaching vessels; and that, while in port or laid up, at least two competent watchmen shall be employed, one of whom shall be on duty at all times; that in all cases of loss or damage the assured shall furnish to said company proofs of the same within thirty days from the date thereof; and all claims under this policy shall be barred, unless prosecuted within one year from the same date; and no loss shall be paid unless the assured shall give immediate notice in case of accident or loss to the company; and that the liability of this company for all losses during the continuance of this policy, shall not in the aggregate exceed the sum hereby insured.

In case of any loss or misfortune, resulting from any peril insured against, the party insured shall use every effort for the safeguard and recovery of said vessel, and if recovered to cause the same to be forthwith repaired, and in case of neglect or refusal on the part of the assured, his agents or assigns to adopt prompt and efficient measures for the safeguard and recovery of said vessel, then the said insurers are hereby authorized to interpose and recover said vessel, and cause the same to be repaired for account of the insured, to the charge of which the said insurance company will contribute, in proportion as the sum herein insured bears to the agreed value in this policy; but in no case whatever shall the assured have the right to abandon, until it shall be ascertained that the recovery and repairs of said vessel are impracticable, nor sell the wreck, or any portion thereof, without the consent of this company, and the acts of the assured or assurers, or of their joint and respective agents, in preserving, securing, or saving the property insured, in case of danger or disaster, shall not be considered or held to be a waiver or acceptance of an abandonment. In case of accident rendering repairs necessary, the master or owner shall cause the said vessel to be surveyed by a competent inspector, who shall, under oath, note particularly the damage sustained and the repairs required thereby. All claims for repairs shall be accompanied by the vouchers, and by the oath or affirmation of the master that such expenses were actually incurred and made necessary by the accident which may have happened to said vessel.

No deduction will be made from claims for repairs to the hull and machinery, during the first two years from the date of her original custom-house survey, but from all claims for repairs to the cabin, or tackle, or apparel, or furniture, or for replacing the same the assured shall deduct one-third, that being the agreed difference

Adjustment of losses.

in value between new and old materials, and the same deduction shall be made from claims for repairs to the hull and machinery, after the first two years as aforesaid.

No allowance will be made for wages or provisions paid or furnished to officers or crew while the vessel is detained by any accident, or while undergoing any repairs, except for the time they are actually employed for the safety of the vessel and cargo, for which they will be included in the general average account. Whenever this company shall pay any loss the assured agrees to sign over to said company all right to recover satisfaction therefor from any other person or persons, town or other corporation, or the United States Government, or to prosecute therefor at the charge and for account of the company, if requested. And the said company shall be entitled to such proportion of said damages recovered as the amount insured by them bears to the valuation of said vessel.

In case of return premium, at the request of the assured, a deduction shall only be made on the whole months of unexpired time; the earned time to be charged for at short rates.

In witness thereof, The *National* Insurance Company of Cincinnati have caused these presents to be signed by their president, and attested by their secretary, at their office in the city of Cincinnati, State of Ohio, this 31st day of October, 1870.

S. MORSE, *President.*

A. M. ROSS, *Secretary.*

"A." R. S. Semple's deposition.

(Signed) R. S. FULTON,
U. S. Comm'r.

For value received, hereby transfer, assign, and set over unto and assigns, all right, title, and interest in this policy of insurance, and all benefit and advantage to be derived therefrom, subject to the deduction therefrom of all claims due this company, at this date, by the assignor, and thereafter by the acceptor.

Witness hand and seal this day of .

[SEAL.]

Sealed and delivered in presence of—

Approved:

Secretary.

For value received, hereby transfer, assign, and set over unto and assigns, all right, title, and interest in this policy of insurance, and all benefit and advantage to be derived therefrom, subject to the deduction therefrom of all claims due this company, at this date, by the assignor, and thereafter by the acceptor.

Witness hand and seal this day of .

[SEAL.]

Sealed and delivered in presence of—

Approved:

Secretary.

For value received, hereby transfer, assign, and set over unto and assigns, all right, title, and interest in this policy of insurance, and all benefit and advantage to be derived there-

from, subject to the deduction therefrom of all claims due this company, at this date, by the assignor, and thereafter by the acceptor.

Witness hand and seal this day of .

[SEAL.]

Sealed and delivered in presence of—

Approved:

Secretary.

(Indorsed:) Vessel, Robt. E. Lee. No. 942. American Insurance Company of Cincinnati, O., to John W. Cannon. Valuation, $75,000. Limit, $50,000; $5,000 @ 10 $500.00. Expires October 31st, 1871. Macbrair & Sons, 141 Race st., Cin.

500*b* UNION INSURANCE COMPANY,

[Cut of steamboat.]

OF CINCINNATI, OHIO.

No. 1,174. Vessel R. E. Lee. Proposition No. 17,520. Valuation, $75,000. Sum insured, $3,500. Premium, $350.00. On account of present owners. Loss, if any, payable to the assured.

This policy of insurance witnesseth that the National Insurance Company of Cincinnati, by these presents, do cause John W. Cannon to be insured in the sum not exceeding thirty-five hundred dollars, lost or not lost, upon the steamboat R. E. Lee, wherever she is in safety at noon of the 31st day of October, 1870, and from thence to noon of the 31st day of October, 1871, when this policy shall expire, unless sooner terminated or made void by conditions hereinafter expressed.

With permission to navigate the Ohio & Mississippi rivers and tributaries, excepting Missouri, Arkansas, & Red Rivers.

Underwriter's obligations.

This company having been paid the consideration for this insurance, at the rate of ten per cent., for the term of this policy, the said steamboat R. E. Lee, hereby insured, being valued at seventy-five thousand dollars.

Touching the perils, which the said insurance company is content to bear, and take upon it, under this policy, they are of the seas, lakes, rivers, canals, fires, and jettisons, that shall come to the damage of said vessel or any part thereof. And, in case of loss, such loss to be paid in sixty days after proof thereof, proof of interest and adjustment exhibited to the assurers, all sums owing by the assured to the company being first deducted, or secured to the satisfaction of the assurers, before such loss shall be paid. But no loss, by special average, shall in any case be paid, unless the necessary repairs required solely by the disaster (exclusive of the cost of taking the vessel on the docks or hauling her out on marine ways, the cost of dock or railway fees while being repaired, and the cost of ascertaining and proving the loss, shall amount to five per cent. on the value of said vessel as specified in this policy.

This policy shall become void if any further insurance has been or shall be made on said vessel, which, together with this insurance, shall exceed the sum of fifty thousand dollars, or upon any assignment of this policy, or charter of said vessel, unless notice is

given to this company, and the same be approved and endorsed hereon, in writing, by the company; also during any time said vessel shall carry hemp on deck, unless the same be covered by bagging, or unslacked lime in the hold, or cotton on the hurricane deck; and also in case the note or other obligation given for the premium herefor, be not paid within fifteen days after maturity and demand, and remain void during the time the same shall be overdue and unpaid. It is also ageeed that the insurance by this policy shall cease during the time said vessel shall be taken and held in possession or custody, under any proceedings in law or equity, except during the first five days after seizure. No assignment or transfer hereof, shall, in any case, relieve the insured or property hereby insured, from any or all of the conditions expressed in this policy; and a violation or non-compliance with any of such conditions, either by the assignee or assignor, before or after the assignment, shall vitiate this policy.

Obligations of the assured.

Warrant by the assured, that this company shall be free from all claim for loss or damage arising from or caused by theft, barratry, robbery, civil commotion, war or piracy, or during any time said vessel shall be seized and taken possession of or detained by any act of the United States Government, or other legally excluded causes; from damage that may be done by the vessel hereby insured to any other vessel or property; from any loss or damage occasioned by said vessel being improperly laden, by the bursting of boilers, the collapsing of flues, explosion of gunpowder, the derangement or breaking of the engine or machinery, or any consequence resulting therefrom, unless the same be caused by unavoidable external violence; from any loss or damage occasioned by ice between Bissell's Point and the bridge piers in the port of St. Louis, Mo., from the loss or damage occasioned by the use on board of coal oil, or spirit gas, in any form; from any consequences of said vessel having been engaged in any illicit or prohibited trade at any time whatever; and from any loss caused by the use of an open light of any kind in the hold; that there shall be no abandonment, as for a total loss, on account of said vessel grounding or being otherwise detained, or in consequence of any loss or damage, unless the injury sustained be equivalent to fifty per centum of the agreed value in this policy; that the aforesaid vessel is, and shall be, at all times during the continuance of this policy, tight and sound, sufficiently found in tackle and appurtenances thereto, competently provided with master, officers, and crew, and in all other things and means necessary for the safe employment thereof; and that said vessel shall be run and navigated upon the aforesaid privileged waters, as is usual for boats of her class, in the usual prosecution of business; and that this policy shall be null and void while said vessel shall be unseaworthy, or condemned as unseaworthy, except while proceeding to a port for repairs, and during the time of such repairs; that in the night-time said vessel shall show in a conspicuous place, one or more lights, so as to warn and give notice to boats and approaching vessels; and that, while in port or laid up, at least two competent watchmen shall be employed, one of whom shall be on duty at all times; that in all cases of loss or damage the assured shall furnish to said company proofs of the same within thirty days from the date thereof; and all claims under this policy shall be barred, unless prosecuted within one

year from the same date; and no loss shall be paid unless the assured shall give immediate notice in case of accident or loss to the company; and that the liability of this company for all losses during the continuance of this policy, shall not in the aggregate exceed the sum hereby insured.

In case of any loss or misfortune, resulting from any peril insured against, the party insured shall use every effort for the safeguard and recovery of said vessel, and if recovered to cause the same to be forthwith repaired and in case of neglect or refusal on the part of the assured, his agents, or assigns, to adopt prompt and efficient measures for the safeguard and recovery of said vessel, then the said insurers are hereby authorized to interpose and recover said vessel, and cause the same to be repaired for account of the insured, to the charge of which the said insurance company will contribute, in proportion as the sum herein insured bears to the agreed value of this policy; but in no case whatever shall the assured have the right to abandon, until it shall be ascertained that the recovery and repairs of said vessel are impracticable, nor sell the wreck, or any portion thereof, without the consent of this company; and the acts of the assured or assurers, or of their joint and respective agents, in preserving, securing, or saving the property insured, in case of danger or disaster, shall not be considered or held to be a waiver or acceptance of an abandonment. In case of accident rendering repairs necessary, the master or owner shall cause the said vessel to be surveyed by a competent inspector, who shall, under oath, note particularly the damage sustained and the repairs required thereby. All claims for repairs shall be accompanied by the vouchers, and by the oath or affirmation of the master that such expenses were actually incurred and made necessary by the accident which may have happened to said vessel.

Adjustment of losses.

No deduction will be made from claims for repairs to the hull and machinery, during the first two years from the date of her original custom-house survey; but from all claims for repairs to the cabin, or tackle, or apparel, or furniture, or for replacing the same, the assured shall deduct one-third, that being the agreed difference in value between new and old materials and the same deduction shall be made from claims for repairs to the hull and machinery, after the first two years, as aforesaid.

No allowance will be made for wages or provisions paid or furnished to officers or crew, while the vessel is detained by any accident, or while undergoing any repairs, except for the time they are actually employed for the safety of the vessel and cargo, for which they will be included in the general average account. Whenever this company shall pay any loss, the assured agrees to sign over to said company all right to recover satisfaction therefor, from any other person or persons, town, or other corporation, or the United States Government, or to prosecute therefor at the charge and for account of the company, if requested. And the said company shall be entitled to such proportion of said damages recovered as the amount insured by them bears to the valuation of said vessel.

In case of return premium, at the request of the assured, a deduction shall only be made on the whole months of unexpired time; the earned time to be charged for at short rates.

In witness whereof, The *National* Insurance Company of Cincinnati,

have caused these presents to be signed by their president and attested by their secretary, at their office, in the city of Cincinnati, State of Ohio, this 31st day of October, 1870.

W. M. RICHARDSON, *President.*

AB'M EDWARDS, *Secretary.*

B. R. S. Semple's deposition.

(Signed) R. S. FULTON,
U. S. Com'r.

For value received, hereby transfer, assign, and set over unto and assigns, all right, title, and interest in this policy of insurance, and all benefit and advantage to be derived therefrom, subject to the deduction therefrom of all claims due this company, at this date, by the assignor, and thereafter by the acceptor.

Witness hand and seal this day of .

[SEAL.]

Sealed and delivered in presence of—

Approved:

Secretary.

For value received, hereby transfer, assign, and set over unto and assigns, all right, title, and interest in this policy of insurance, and all benefit and advantage to be derived therefrom, subject to the deduction therefrom of all claims due this company, at this date, by the assignor, and thereafter by the acceptor.

Witness hand and seal this day of .

[SEAL.]

Sealed and delivered in presence of—

Approved:

Secretary.

For value received, hereby transfer, assign, and set over unto and assigns, all right, title, and interest in this policy of insurance, and all benefit and advantage to be derived therefrom, subject to the deduction therefrom of all claims due this company, at this date, by the assignor, and thereafter by the acceptor.

Witness hand and seal this day of .

[SEAL.]

Sealed and delivered in presence of—

Approved:

Secretary.

(Indorsed:) Vessel, R. E. Lee. No. 1174. Union Insurance Company of Cincinnati, O. To John W. Cannon. Valuation, $75,000. Limit, $50,000. $3,500 @ 10 % $350.00. Expires October 31st, 1871. Macbrair & Sons, 141 Race st., Cin.

500*c*

FARMERS' INSURANCE COMPANY,

[Cut of steamboat.]

OF CINCINNATI, OHIO.

No. 205. Vessel, Rob't E. Lee. Proposition No. . Valuation, $75,000. Sum insured, $2,500. Premium, $250. On account of present owners. Loss, if any, payable to assured.

This policy of insurance witnesseth, that the Farmers' Insurance Co., of Cincinnati, by these presents do cause John W. Cannon to be insured in the sum not exceeding twenty-five hundred dollars, lost or not lost, upon the steamer Robert E. Lee, wherever she is in safety at noon of

the 31st day of October, 1870, and from thence to noon of the 31st day of October, 1871, when this policy shall expire, unless sooner terminated or made void by conditions hereinafter expressed.

With permission to navigate the Ohio & Mississippi Rivers & their tributaries, except the Missouri, Red, & Arkansas Rivers. Coal oil clause waived.

Underwriter's obligations.

This company having been paid the consideration for this insurance, at the rate of 10 per cent. for the term of this policy, the said steamer Robert E. Lee hereby insured, being valued at seventy-five thousand dollars.

Touching the perils, which the said insurance company is content to bear, and take upon it, under this policy, they are of the seas, lakes, rivers, canals, fires, and jettisons, that shall come to the damage of said vessel or any part thereof. And, in case of loss, such loss to be paid in sixty days after proof thereof, proof of interest and adjustment exhibited to the assurers, all sums owing by the assured to the company being first deducted or secured to the satisfaction of the assurers before such loss shall be paid. But no loss, by special average, shall, in any case, be paid, unless the necessary repairs, required solely by the disaster (exclusive of the cost of taking the vessel on the docks or hauling her out on marine ways, the cost of dock or railway fees while being repaired, and the cost of ascertaining and proving the loss, shall amount to five per cent. on the value of said vessel as specified in this policy.)

This policy shall become void if any further insurance has been or shall be made on said vessel, which, together with this insurance, shall exceed the sum of fifty thousand dollars, or upon any assignment of this policy, or charter of said vessel, unless notice is given to this company, and the same be approved and endorsed hereon, in writing, by the company; also, during any time said vessel shall carry hemp on deck, unless the same be covered by bagging, or unslacked lime in the hold, or cotton on the hurricane deck; and also in case the note or other obligation given for the premium herefor be not paid within fifteen days after maturity and demand, and remain void during the time the same shall be over-due and unpaid. It is also agreed that the insurance, by this policy, shall cease during the time said vessel shall be taken and held in possession or custody, under any proceedings in law or equity, except during the first five days after seizure. No assignment or transfer hereof shall in any case relieve the insured or property hereby insured, from any or all of the conditions expressed in this policy; and a violation or non-compliance with any of such conditions, either by the assignee or assignor, before or after the assignment, shall vitiate this policy.

Warranted by the assured that this company shall be free from all claim for loss or damage arising from or caused by theft, barratry, robbery, civil commotion, war or piracy, or during any time said vessel shall be seized and taken possession of or detained by any act of the United States Government, or other legally excluded causes; from damage that may be done by the vessel hereby insured to any other vessel or property; from any loss or damage occasioned by said vessel being improperly laden, by the bursting of boilers, the collapsing of flues, explosion of gunpowder, the derangement or breaking of the engine or machinery, or any consequence resulting therefrom, unless the same be caused by unavoid-

Obligations of the assured.

able external violence; from any loss or damage occasioned by ice between Bissell's Point and the bridge piers, in the port of St. Louis, Mo., from the loss or damage occasioned by the use on board of coal-oil, or spirit-gas, in any form; from any consequences of said vessel having been engaged in any illicit or prohibited trade at any time whatever; and from any loss caused by the use of an open light of any kind in the hold; that there shall be no abandonment, as for a total loss, on account of said vessel grounding or being otherwise detained, or in consequence of any loss or damage, unless the injury sustained be equivalent to fifty per centum of the agreed value in this policy; that the aforesaid vessel is, and shall be, at all times during the continuance of this policy, tight and sound, sufficiently found in tackle and appurtenances thereto, competently provided with master, officers, and crew, and in all other things and means necessary for the safe employment thereof; and that said vessel shall be run and navigated upon the aforesaid privileged waters, as is usual for boats of her class, in the usual prosecution of business; and that this policy shall be null and void while said vessel shall be unseaworthy, or condemned as unseaworthy, except while proceeding to a port for repairs, and during the time of such repairs; that in the night-time said vessel shall show in a conspicuous place one or more lights, so as to warn and give notice to boats and approaching vessels; and that, while in port or laid up, at least two competent watchmen shall be employed, one of whom shall be on duty at all times; that in all cases of loss or damage the assured shall furnish to said company proofs of the same within thirty days from the date thereof; and all claims under this policy shall be barred, unless prosecuted within one year from the same date; and no loss shall be paid unless the assured shall give immediate notice in case of accident or loss to the company; and that the liability of this company for all losses during the continuance of this policy shall not in the aggregate exceed the sum hereby insured.

In case of any loss or misfortune, resulting from any peril insured against, the party insured shall use every effort for the safeguard and recovery of said vessel, and if recovered to cause the same to be forthwith repaired, and in case of neglect or refusal on the part of the assured, his agents or assigns, to adopt prompt and efficient measures for the safeguard and recovery of said vessel, then the said insurers are hereby authorized to interpose and recover said vessel, and cause the same to be repaired for account of the insured, to the charge of which the said insurance company will contribute in proportion as the sum herein insured bears to the agreed value in this policy; but in no case whatever shall the assured have the right to abandon, until it shall be ascertained that the recovery and repairs of said vessel are impracticable, nor sell the wreck, or any portion thereof, without the consent of this company, and the acts of the assured or assurers, or of their joint and respective agents, in preserving, securing, or saving the property insured, in case of danger or disaster, shall not be considered or held to be a waiver or acceptance of an abandonment. In case of accident rendering repairs necessary, the master or owner shall cause the said vessel to be surveyed by a competent inspector, who shall, under oath, note particularly the damage sustained and the repairs required thereby. All claims for repairs shall be accompanied by the vouchers, and by the oath or affirmation of the master that such expenses were actually incurred and made necessary by the accident which may have happened to said vessel.

Adjustment of losses.

No deduction will be made from claims for repairs to the hull and machinery during the first two years from the date of her original custom-house survey; but from all claims for repairs to the cabin, or tackle, or apparel, or furniture, or for replacing the same, the assured shall deduct one-third, that being the agreed difference in value between new and old materials, and the same deduction shall be made from claims for repairs to the hull and machinery, after the first two years, as aforesaid.

No allowance will be made for wages or provisions paid or furnished to officers or crew while the vessel is detained by any accident, or while undergoing any repairs, except for the time they are actually employed for the safety of the vessel and cargo, for which they will be included in the general average account. Whenever this company shall pay any loss, the assured agrees to sign over to said company all right to recover satisfaction therefor from any other person or persons, town or other corporation, or the United States Government, or to prosecute therefor at the charge and for account of the company, if requested. And the said company shall be entitled to such proportion of said damages recovered, as the amount insured by them bears to the valuation of said vessel.

In case of return premium, at the request of the assured, a deduction shall only be made on the whole months of unexpired time; the earned time to be charged for at short rates.

In witness thereof The Farmers' Insurance Company of Cincinnati, have caused these presents to be signed by their president and attested by their secretary, at their office in the city of Cincinnati, State of Ohio, this 31st day of Oct., 1870.

(Signed) JOHN COCHNEWER, *President.*
M. HOLLINGSHEAD, *Secretary.*

[Signatures of president and secretary erased in the original.—*Printer.*]

"C." R. S. Semple's deposition.

(S'g'd) R. S. FULTON,
U. S. Com'r.

For value received, hereby transfer, assign, and set over unto and assigns, all right, title, and interest in this policy of insurance, and all benefit and advantage to be derived therefrom, subject to the deduction therefrom of all claims due this company, at this date, by the assignor, and thereafter by the acceptor.

Witness hand and seal this day of .

. [SEAL.]

Sealed and delivered in presence of—
Approved.

Secretary.

For value received, hereby transfer, assign, and set over unto and assigns, all right, title, and interest in this policy of insurance, and all benefit and advantage to be derived therefrom, subject to the deduction therefrom of all claims due this company, at this date, by the assignor, and thereafter by the acceptor.

Witness hand and seal this day of .

. [SEAL.]

Sealed and delivered in presence of—
Approved.

Secretary.

For value received, hereby transfer, assign, and set over unto and assigns, all right, title, and interest in this policy of insurance, and all benefit and advantage to be derived therefrom, subject to the deduction therefrom of all claims due this company, at this date, by the assignor, and thereafter by the acceptor.

Witness hand and seal this day of .

. [SEAL.]

Sealed and delivered in presence of—

Approved.

Secretary.

(Indorsed:) Vessel, R. E. Lee; No. 205; Farmers' Insurance Company of Cincinnati, O., to Jno. W. Cannon; valuation, $75,000; limit, $50,000, $2,500 @ 10, $250; expires Oct. 31st, 1871.

500*d* BURNET INSURANCE COMPANY.

[Cut of steamboat.]

OF CINCINNATI, OHIO.

No. 155. Vessel R. E. Lee. Proposition, No. . Valuation, $75,000. Sum insured, $2,500. Premium, $350. On account of present owners. Loss, if any, payable to assured.

This policy of insurance witnesseth, that the National Insurance Company of Cincinnati, by these presents do cause John W. Cannon, to be insured in the sum not exceeding twenty-five hundred dollars, lost or not lost, upon the steamboat R. E. Lee, wherever she is in safety at noon of the 31st day of October, 1870, and from thence to noon of the 31st day of October, 1871, when this policy shall expire, unless sooner terminated or made void by conditions hereinafter expressed.

With permission to navigate the Ohio & Mississippi Rivers, & tributaries, except the Red, Arkansas, and Missouri Rivers. Coal oil clause waived.

Underwriter's obligations.

This company having been paid the consideration for this insurance, at the rate of ten per cent. for the term of this policy, the said steamboat R. E. Lee, hereby insured, being valued at seventy-five thousand dollars.

Touching the perils, which the said insurance company is content to bear, and to take upon it, under this policy, they are of the seas, lakes, rivers, canals, fires, and jettisons that shall come to the damage of said vessel or any part thereof. And, in case of loss, such loss to be paid in sixty days after proof thereof, proof of interest and adjustment exhibited to the assurers; all sums owing by the assured to the company, being first deducted, or secured to the satisfaction of the assurers, before such loss shall be paid. But no loss, by special average, shall, in any case, be paid, unless the necessary repairs required solely by the disaster (exclusive of the costs of taking the vessel on the docks or hauling her out on marine ways, the cost of dock or railway fees while being repaired, and the cost of ascertaining and proving the loss, shall amount to five per cent. on the value of said vessel as specified in this policy.)

This policy shall become void, if any further insurance has been or shall be made on said vessel, which together with this insurance, shall exceed the sum of fifty thousand dollars, or upon any assignment of this policy, or charter of said vessel, unless notice is given

to this company, and the same be approved and endorsed hereon, in writing, by the company; also during any time said vessel shall carry hemp on deck, unless the same be covered by bagging, or unslacked lime in the hold, or cotton on the hurricane deck; and also in case the note or other obligation given for the premium herefor, be not paid within fifteen days after maturity and demand, and remain void during the time the same shall be over-due and unpaid. It is also agreed that the insurance, by this policy, shall cease during the time said vessel shall be taken and held in possession or custody, under any proceedings in law or equity, except during the first five days after seizure. No assignment or transfer hereof, shall, in any case, relieve the insured, or property hereby insured, from any or all of the conditions expressed in this policy; and a violation or non-compliance with any of such conditions, either by the assignee or assignor, before or after the assignment, shall vitiate this policy.

Obligations of the assured.

Warranted by the assured, that this company shall be free from all claim for loss or damage arising from or caused by theft, barratry, robbery, civil commotion, war, or piracy, or during any time said vessel shall be seized and taken possession of or detained by any act of the United States Government, or other legally excluded causes; from damage that may be done by the vessel hereby insured to any other vessel or property; from any loss or damage occasioned by said vessel being improperly laden, by the bursting of boilers, the collapsing of flues, explosion of gunpowder, the derangement or breaking of the engine or machinery, or any consequence resulting therefrom, unless the same be caused by unavoidable external violence; from any loss or damage occasioned by ice between Bissell's Point and the bridge piers, in the port of St. Louis, Mo.; from the loss or damage occasioned by the use on board of coal-oil, or spirit-gas, in any form; from any consequences of said vessel having been engaged in any illicit or prohibited trade at any time whatever; and from any loss caused by the use of an open light of any kind in the hold; that there shall be no abandonment, as for a total loss, on account of said vessel grounding or being otherwise detained, or in consequence of any loss or damage, unless the injury sustained be equivalent to fifty per centum of the agreed value in this policy; that the aforesaid vessel is, and shall be, at all times during the continuance of this policy, tight and sound, sufficiently found in tackle and appurtenances thereto, competently provided with master, officers, and crew, and in all other things and means necessary for the safe employment thereof; and that said vessel shall be run and navigated upon the aforesaid privileged waters as is usual for boats of her class, in the usual prosecution of business; and that this policy shall be null and void while said vessel shall be unseaworthy, or condemned as unseaworthy, except while proceeding to a port for repairs, and during the time of such repairs; that in the night-time said vessel shall show in a conspicuous place, one or more lights, so as to warn and give notice to boats and approaching vessels; and that, while in port or laid up, at least two competent watchmen shall be employed, one of whom shall be on duty at all times; that in all cases of loss or damage the assured shall furnish to said company proofs of the same within thirty days from the date thereof; and in one year from the same all claims under this policy shall be barred, unless prosecuted within one year form the same date; and no loss shall be paid unless the assured shall give immediate notice in case of accident or loss to

the company; and that the liability of this company for all losses during the continuance of this policy, shall not in the aggregate exceed the sum hereby insured.

In case of any loss or misfortune, resulting from any peril insured against, the party insured shall use every effort for the safeguard and recovery of said vessel, and if recovered to cause the same to be forthwith repaired and in case of neglect or refusal on the part of the assured, his agents or assigns, to adopt prompt and efficient measures for the safeguard and recovery of said vessel, then the said insurers are hereby authorized to interpose and recover said vessel, and cause the same to be repaired for account of the insured, to the charge of which the said insurance company will contribute, in proportion as the sum herein insured bears to the agreed value in this policy; but in no case whatever shall the assured have the right to abandon, until it shall be ascertained that the recovery and repairs of said vessel are impracticable, nor sell the wreck, or any portion thereof, without the consent of this company, and the acts of the assured or assurers, or of their joint and respective agents, in preserving, securing or saving the property insured, in case of danger or disaster, shall not be considered or held to be a waiver or acceptance of an abandonment. In case of accident rendering repairs necessary, the master or owner shall cause the said vessel to be surveyed by a competent inspector, who shall, under oath, note particularly the damage sustained and the repairs required thereby. All claims for repairs shall be accompanied by the vouchers, and by the oath or affirmation of the master that such expenses were actually incurred and made necessary by the accident which may have happened to said vessel.

Adjustment of losses.

No deduction will be made from claims for repairs to the hull and machinery, during the first two years from the date of her original custom-house survey; but from all claims for repairs to the cabin, or tackle, or apparel, or furniture, or for replacing the same, the assured shall deduct one-third, that being the agreed difference in value between new and old materials and the same deduction shall be made from claims for repairs to the hull and machinery, after the first two years, as aforesaid.

No allowance will be made for wages or provisions paid or furnished to officers or crew, while the vessel is detained by any accident, or while undergoing any repairs, except for the time they are actually employed for the safety of the vessel and cargo, for which they will be included in the general average account. Whenever this company shall pay any loss, the assured agrees to sign over to said company, all right to recover satisfaction therefor from any other person or persons, town or other corporation, or the United States Government, or to prosecute therefor at the charge and for account of the company, if requested. And the said company shall be entitled to such proportion of said damages recovered as the amount insured by them bears to the valuation of said vessel.

In case of return premium, at the request of the assured, a deduction shall only be made on the whole months of unexpired time; the earned time to be charged for at short rates.

In witness thereof, the *National* Insurance Company of Cincinnati, have caused these presents to be signed by their president, and at-

tested by their secretary, at their office in the city of Cincinnati, State of Ohio, this 31st day of October, 1870.

GEORGE TAYLOR, *President.*
(Signed) JNO. S. TAYLOR, *Secretary.*

D. R. S. Semple's deposition.
(Signed) R. S. FULTON,
U. S. Com'r.

For value received, hereby transfer, assign and set over unto and assigns, all right, title and interest in this policy of insurance, and all benefit and advantage to be derived therefrom, subject to the deduction therefrom of all claims due this company, at this date, by the assignor, and thereafter by the acceptor.
Witness hand and seal this day of .

[SEAL.]

Sealed and delivered in presence of—
Approved:

Secretary.

For value received, hereby transfer, assign, and set over unto and assigns, all right, title and interest in this policy of insurance, and all benefit and advantage to be derived therefrom, subject to the deduction therefrom of all claims due this company, at this date, by the assignor, and thereafter by the acceptor.
Witness hand and seal this day of .

[SEAL.]

Sealed and delivered in presence of—
Approved:

Secretary.

For value received, hereby transfer, assign and set over unto and assigns, all right, title and interest in this policy of insurance, and all benefit and advantage to be derived therefrom, subject to the deduction therefrom of all claims due this company, at this date, by the assignor, and thereafter by the acceptor.
Witness hand and seal this day of .

[SEAL.]

Sealed and delivered in presence of—
Approved:

Secretary.

(Indorsed:) Vessel R. E. Lee. No. 155. Burnet Insurance Company of Cincinnati, O., to John W. Cannon. Valuation, $75,000. Limit, $50,000, $2,500 @ 10%, $250. Expires, October 31st '71. Macbrair & Sons, 141 Race st., Cin.

500*e*

No. 820.] THE EUREKA INSURANCE COMPANY OF CINCINNATI. [$5,000.

Valuation, $75,000; limit of insurance, $50,000; sum insured, $5,000; premium, $500.

By these presents the Eureka Fire & Marine Insurance Company, does cause J. W. Cannon to be insured in the sum of not exceeding five thousand dollars, lost or not lost, upon the steamboat Robert E. Lee,

wherever she is in safety at noon of the 31st day of October, 1870, and from thence to the noon of the 31st day of Oct., 1871, when this policy shall expire, unless sooner terminated or made void by conditions hereinafter expressed.

With permission to navigate the Ohio & Mississippi Rivers & tributaries, except the Missouri, Arkansas & Red Rivers. Coal oil clause waived. On account of present owners. Loss, if any, payable to assured.

Underwriters' obligations.

This company having received note or other obligation for this insurance, at the rate of 10 per cent, for the term of this policy, the said steamboat R. E. Lee hereby insured being valued at seventy-five thousand dollars.

Touching the perils, which the said insurance company is content to bear and take upon it under this policy, they are of the seas, lakes, rivers, canals, fires, and jettisons that shall come to the damage of said vessel or any part thereof. And in case of loss, such loss to be paid in sixty days after proof thereof, proof of interest and adjustment exhibited to the assurers, all sums owing by the assured to the company being first deducted, and all sums coming due being first paid or secured to the satisfaction of the assurers before such loss shall be paid, but no loss by special average shall in any case be paid, unless the necessary repairs required solely by the disaster (exclusive of the cost of taking the vessel on the docks or hauling her out on marine ways, the cost of dock or railway fees while being repaired, and the cost of ascertaining and proving the loss), shall amount to five per cent. on the value of said vessel as specified in this policy.

This policy shall become void if any further insurance has been or shall be made on said vessel which, together with this insurance, shall exceed the sum of fifty thousand dollars, or upon any assignment of this policy, or charter of said vessel, unless notice is given to this company, and the same be approved and endorsed hereon in writing by the company; also during any time said vessel shall carry hemp on deck, unless the same be covered by bagging, or unslacked lime in the hold, or cotton on the hurricane deck; and also in case the note or other obligation given for the premium hereof, be not paid at maturity, and remain void during the time the same shall be overdue and unpaid. It is also agreed that the insurance, by this policy, shall cease during the time said vessel shall be taken and held in possession or custody under any proceeding in law or equity, except during the first three days after seizure. No assignment or transfer hereof shall in any case relieve the assured or property hereby insured from any or all of the conditions expressed in this policy, and a violation or non-compliance with any of such conditions, either by the assignee or assignor, before or after the assignment, shall vitiate this policy.

Warranted by the assured that this company shall be free from all claim for loss or damage arising from or caused by theft, barratry, robbery, civil commotion, war or piracy, or during any time said vessel shall be seized and taken possession of or detained by any act of the United States Government, or other legally excluded causes; from damage that may be done by the vessel hereby insured to any other vessel or property; from any loss or damage occasioned by said vessel being improperly laden, by the bursting of boilers, the collapsing of flues, explosion of gunpowder, the derangement or breaking of the engine or machinery, or any consequence resulting therefrom, unless the same be caused by unavoid-

Obligations of the assured.

able external violence; from any loss or damage occasioned by ice between Bissell's Point and the bridge, in the port of St. Louis, Mo.; from loss or damage occasioned by the use on board of coal-oil or spirit-gas in any form; from any consequences of said vessel having been engaged in an illicit or prohibited trade at any time whatever; and from any loss caused by the use of an open light of any kind in the hold; that there shall be no abandonment, as for a total loss, on account of said vessel grounding or being otherwise detained, or in consequence of any loss or damage, unless the injury sustained be equivalent to fifty per centum of the agreed value of this policy; that the aforesaid vessel is and shall be at all times during the continuance of this policy, tight and sound, sufficiently found in tackle and appurtenances thereto, competently provided with master, officers, and crew, and all other things and means necessary for the safe employment thereof; and that said vessel shall be run and navigated upon the aforesaid privileged waters, as is usual for boats of her class, in the usual prosecution of business; and that this policy shall be null and void while said vessel shall be unseaworthy, or condemned as unseaworthy, except while proceeding to a port for repairs and during the time of such repairs; that in the night-time said vessel shall show in a conspicuous place one or more lights, so as to warn and give notice to boats and approaching vessels; and that while in port or laid up, at least two competent watchmen shall be employed, one of whom shall be on duty at all times; that in all cases of loss or damage the assured shall furnish to said company proofs of the same within thirty days from the date thereof, and all claims under this policy shall be barred unless prosecuted within one year from the same date; and no loss shall be paid unless the assured shall give immediate notice in case of accident or loss to the company; and that the liability of this company for all losses during the continuance of this policy shall not in the aggregate exceed the sum hereby insured.

In case of any loss or misfortune, resulting from any peril insured against, the party insured shall use every effort for the safeguard and recovery of said vessel, and if recovered, to cause the same to be forthwith repaired; and in case of neglect or refusal on the part of the assured, their agents or assigns, to adopt prompt and efficient measures for the safeguard and recovery of said vessel, then the said insurers are hereby authorized to interpose and recover said vessel, and cause the same to be repaired for account of the insured, to the charges of which the said insurance company will contribute, in proportion as the sum herein insured bears to the agreed value in this policy; but in no case whatever shall the assured have the right to abandon until it shall be ascertained that the recovery and repairs of said vessel are impracticable; nor sell the wreck or portion thereof without the consent of this company; and the acts of the assured or assurers, or of their joint or respective agents, in preserving, securing, or saving the property insured, in case of danger or disaster, shall not be considered or held to be a waiver or acceptance of an abandonment. In case of accident rendering repairs necessary, the master or owner shall cause the said vessel to be surveyed by a competent inspector, who shall, under oath, note particularly the damage sustained and the repairs required thereby. All claims for repairs shall be accompanied by the vouchers and by the oath or affirmation of the master that such

expenses were actually incurred and made necessary by the accident which may have happened to said vessel.

Adjustment of loss.

No deduction will be made on claims for repairs to the hull or machinery of said vessel during the first two years from the date of her original custom-house survey; but from all claims for repairs to the cabin, or tackle, or apparel, or furniture, or for replacing the same, the assured shall deduct one-third, that being the agreed difference in value between new and old materials, and the same deduction shall be made from claims for repairs to the hull and machinery after the first two years as aforesaid.

No allowance will be made for wages or provisions paid or furnished to officers or crew while the vessel is detained by any accident, or while undergoing any repairs, except for the time they are actually employed for the safety of the vessel and cargo, for which they will be included in the general average account. Whenever this company shall pay any loss, the assured agrees to assign over to said company all right to recover satisfaction therefor from any other person or persons, town, or other corporation, or the United States Government, or to prosecute therefor at the charge and for account of the company if requested. And the said company shall be entitled to such proportion of said damages recovered as the amount insured by them bears to the valuation of said vessel.

In case of return premium, at the request of the assured, a deduction shall only be made on the whole months of unexpired time; the earned time to be charged for at short rates.

In witness whereof, the Eureka Fire and Marine Insurance Company of Cincinnati, has caused these presents to be signed by its president and attested by its secretary, at its office in the city of Cincinnati, State of Ohio, this 31st day of October, 1870

(Signed) JOHN KYLE, *President.*

(Signed) E. E. TOWNLEY, *Secretary.*

E. R. S. Semple's deposition.

(Signed) R. S. FULTON,
U. S. Com'r.

[The words "John Kyle, president," erased and rewritten, and the word "Townley" partly erased in original.—*Printer.*]

For value received, hereby transfer, assign, and set over unto and assigns all right, title, and interest in this policy of insurance, and all benefit and advantage to be derived therefrom, subject to the deduction therefrom of all claims due this company at this date by the assignor, and thereafter by the acceptor.

Witness hand and seal this day of .

[SEAL.]

Sealed and delivered in presence of—

Approved.

Secretary.

For value received, hereby transfer, assign, and set over unto and assigns all right, title, and interest in this policy of insurance, and all benefit and advantage to be derived therefrom, subject to the deduction therefrom of all claims due this company at this date by the assignor, and thereafter by the acceptor.

Witness hand and seal this day of .

[SEAL.]

Sealed and delivered in presence of—

Approved.

Secretary.

(Indorsed:) Hull policy. Vessel R. E. Lee. No. 820. Eureka Fire and Marine Insurance Company of Cincinnati to J. W. Cannon. Valuation, $75,000; limit, $50,000; $5,000 @ 10, $500. Expires Oct. 31st, 1871. Bradley & Power print, 149 Main st., Cin.

500*f* Form (P.) No. 196.] [$.

THE GLOBE INSURANCE COMPANY OF CINCINNATI.

Valuation, $75,000; limit of insurance,$; sum insured, $5,000; premium, $500.00.

This policy of insurance witnesseth, that the Globe Insurance Company does cause John W. Cannon to be insured in the sum of not exceeding five thousand dollars, lost or not lost, upon the steamboat Robert E. Lee, wherever she is in safety at noon of the 31st day of Oct., 1870, and from thence to noon of the 31st day of Oct., 1871, when this policy shall expire unless sooner terminated or made void by conditions hereinafter expressed.

With permission to navigate the Ohio & Mississippi Rivers and their tributaries, excepting the Missouri, Arkansas, & Red Rivers.

It is understood and agreed that this policy shall be subject to all the terms and conditions of what is known as the Cincinnati Union policy.

Warranted by the assured free from claim for loss or damage arising from civil commotions or from piracy, seizure, sequestration, or detention, or the consequences of any other hostile act of the government or people, person or persons, of any State of this Union, or of any State or States claiming to have seceded from this Union.

And it shall be lawful for the said boat, during said time to proceed to, touch and stay at any ports or places on said waters, which may be convenient for the transaction of business, or if thereunto obliged by stress of weather, or other unavoidable accidents, without prejudice to this insurance. And in case of any loss or misfortune resulting from any peril insured against, the party insured engages for himself or themselves, his or their factors, servants, or assigns, to use every practicable effort for the safeguard and recovery of said steamboat, and if recovered to cause the same to be forthwith repaired; and in case of neglect or refusal on the part of the assured, his agents or assigns, to adopt prompt and efficient measures for the safeguard and recovery thereof, then the said insurers are hereby authorized to interpose and recover the said steamboat, and cause the same to be repaired for account of the assured, to the charges of which the said insurance company will contribute in proportion as the sum herein assured bears to the agreed value in this policy; but in no case whatever shall the assured have the right to abandon, until it shall be ascertained that the recovery and repairs of the said steamboat are impracticable, nor sell the wreck, or any part thereof, without the consent of this company; and the acts of the assured or assurers, or of their joint and respective agents, in preserving, securing, and saving the property insured, in case of danger or disaster, shall not be considered or held to be a waiver or acceptance of abandonment.

The company having been paid the consideration for this insurance at the rate of ten per cent. per annum, the said steamboat hereby insured being valued at seventy-five thousand dollars. Touching the adventures and perils which the said insurance company is content to

bear and take upon itself under this policy, they are of the seas, lakes, rivers, canals, fires, and jettisons, that shall come to the damage of said vessel, or any part thereof. Excepting all perils, losses, or misfortunes arising from or caused by theft, barratry, robbery, or other legally excluded causes, for damage that may be done by the vessel hereby insured to any other vessel or property; for any loss or damage arising from or occasioned by said boat being unduly laden, or for any loss or damage arising from or occasioned by the bursting of boilers, the collapsing of flues, or the derangement or the breaking of the engine or machinery, or any consequences resulting therefrom, unless the same be caused by unavoidable external violence.

And in case of loss such loss to be paid in sixty days after proof of loss, proof of interest, and adjustment exhibited to the assurers; the amount of premium, or the note given for the premium, if unpaid, and all sums due from the assured to the company when such loss becomes due, being first deducted, and all sums coming due being first paid or secured to the satisfaction of the assurers. But no loss or average shall in any case be paid under five per cent. on the agreed value in this policy unless general.

Warranted by the assured, that this company shall not be held liable for any loss or damage occasioned by ice, between Bissel's Point and Picott street, in the port of St. Louis, after forty-eight hours from arrival at said port.

Warranted by the assured free from claim for loss or damage, arising from civil commotion or from piracy, seizure, sequestration, or detention, or the consequences of any other hostile act of the government or people of any State of this Union, or of any State or States claiming to have seceded from this Union.

And it is hereby agreed that this policy shall become void if any further insurance has been, or hereafter shall be made on said steamboat which, together with this insurance, shall exceed the sum of fifty thousand dollars, or upon any assignment thereof, unless notice is given at the office of the company, and the same be approved and endorsed hereon by the secretary or other authorized officer of the company.

It is also agreed that the assured shall not abandon, as for a total loss, on account of the said boat grounding, or being otherwise detained, or in consequence of any loss or damage, unless the injury sustained be equivalent to fifty per centum on the agreed value in this policy; and the assured also agrees that the steamboat aforesaid is and shall be, at all times during the continuance of this policy, tight and sound, and her seams properly caulked, and sufficiently found in tackle and appurtenances thereto, and completely provided with master, officers and crew, and in all other things and means necessary for the safe navigation thereof; and that whenever said boat shall be under headway, or be moored in the night-time, she shall show one or more lights in a conspicuous place, so as to warn and give notice to approaching boats and vessels. And it is also agreed in case of injury or accident, the officers and crew shall not leave the boat until the decision of the assurers in case of abandonment shall be known.

It is also agreed that in all cases of loss or damage the assured shall furnish to the said company the proofs of the same, within thirty days from the date thereof, and all claims under this policy shall be barred, unless prosecuted within one year from the same date; and no loss shall be paid unless the assured shall give immediate notice, in case of accident or loss, to this company.

And it is also agreed, that no assignment or transfer of this policy

shall in any case relieve the assured, or property hereby insured, from any or all of the conditions herein expressed, and a violation of, or non-compliance with any of such conditions, either by the assignee or by the assignor, before or after the assignment, shall vitiate this policy. Also, in case the note or obligation given for the premium herefor, be not paid at maturity, the full amount of premium shall be considered as earned, and this policy becomes void, while said note or obligation remains overdue and unpaid.

In all cases of return premium a deduction shall only be made on the whole months of unexpired time. And whenever this company shall pay any loss, the assured agrees to assign over all his right to recover satisfaction therefor, from any other person or persons, town or other corporation, or to prosecute therefor at the charge and for account of the company, if requested. And the said company shall be entitled to such proportion of said damages recovered as the amount insured by them bears to the valuation of said boat.

Warranted by the assured free from any charge, damage, or loss, which may arise in consequence of engaging or having been engaged in illicit or prohibited trade at any time whatsoever.

In the adjustment of the claims for partial loss or damage to hulls of steamboats insured by the said insurance company—

No deduction will be made on account of new work for eighteen months from the date of the boat's departure on its first trip. From the termination of said eighteen months until the expiration of the twelve succeeding months, a deduction of one-fifth, "new for old," will be made on account of new work, and subsequently (i. e., after the expiration of thirty months), a deduction of one-third "new for old," will be made in all adjustments of such claims or partial loss. With these exceptions, the actual repairs to the boat rendered necessary by any accident insured against, will be paid when it amounts to or exceeds five per cent. on the agreed value in the policy.

No allowance will be made for wages or provisions paid or furnished to officers or crew while the boat is detained by any accident, or while undergoing repairs, except for the time they are actually employed for the safety of the boat and cargo, for which time they will be included in the general average account.

The cargo will be required to bear its proportion or share of the expenses incurred for the common benefit, including the expense of raising and pumping out the boat, getting out the cargo, and taking the boat to the nearest place where the necessary repairs can be made—making a general average of the whole, for which the boat will have to contribute only her share in proportion to her value, for which share the company will be liable without regard to her percentage.

In witness whereof, the *Enterprise* Fire and Marine Insurance Company of Cincinnati, has caused these presents to be signed by its president, and attested by its secretary, at its office in the city of Cincinnati, State of Ohio, this 31st day of October, 1870.

S. F. COVINGTON, *President.*

JNO. J. COVINGTON, *Secretary.*

"F." R. S. Semple's deposition.

(Signed) R. S. FULTON,
U. S. Com'r.

For value received, hereby transfer, assign, and set over unto , and assign all right, title, and interest in this policy of insurance, and all benefit and advantage to be derived

and give notice to boats and approaching vessels; and that, while in port or laid up, at least two competent watchmen shall be employed, one of whom shall be on duty at all times; that in all cases of loss or damage the assured shall furnish to said company proofs of the same within thirty days from the date thereof; and all claims under this policy shall be barred, unless prosecuted within one year from the same date; and no loss shall be paid unless the assured shall give immediate notice in case of accident or loss to the company; and that the liability of this company for all losses during the continuance of this policy shall not in the aggregate exceed the sum hereby insured.

In case of any loss or misfortune resulting from any peril insured against, the party insured shall use every effort for the safeguard and recovery of said vessel, and if recovered to cause the same to be forthwith repaired, and in case of neglect or refusal on the part of the assured, his agents or assigns, to adopt prompt and efficient measures for the safeguard and recovery of said vessel, then the said insurers are hereby authorized to interpose and recover said vessel, and cause the same to be repaired for account of the insured, to the charge of which the said insurance company will contribute, in proportion as the sum herein insured bears to the agreed value in this policy; but in no case whatever shall the assured have the right to abandon, until it shall be ascertained that the recovery and repairs of said vessel are impracticable, nor sell the wreck, or any portion thereof, without the consent of this company, and the acts of the assured or assurers, or of their joint and respective agents, in preserving, securing, or saving the property insured, in case of danger or disaster, shall not be considered or held to be a waiver or acceptance of an abandonment. In case of accident rendering repairs necessary, the master or owner shall cause the said vessel to be surveyed by a competent inspector, who shall, under oath, note particularly the damage sustained and the repairs required thereby. All claims for repairs shall be accompanied by the vouchers, and by the oath or affirmation of the master that such expenses were actually incurred and made necessary by the accident which may have happened to said vessel.

Adjustment of losses.

No deduction will be made from claims for repairs to the hull and machinery during the first two years from the date of her original custom-house survey; but from all claims for repairs to the cabin, or tackle, or apparel, or furniture, or for replacing the same, the assured shall deduct one-third, that being the agreed difference in value between new and old materials, and the same deduction shall be made from claims for repairs to the hull and machinery after the first two years, as aforesaid.

No allowance will be made for wages or provisions paid or furnished to officers or crew while the vessel is detained by any accident, or while undergoing any repairs, except for the time they are actually employed for the safety of the vessel and cargo, for which they will be included in the general average amount. Whenever this company shall pay any loss, the assured agrees to sign over to said company all right to recover satisfaction therefor from any other person or persons, town or other corporation, or the United States Government, or to prosecute therefor at the charge and for account of the company, if requested. And the said company shall be entitled to such proportion of said damages recovered as the amount insured by them bears to the valuation of said vessel.

In case of return premium, at the request of the assured, a deduction shall only be made on the whole months of unexpired time; the earned time to be charged for at short rates.

In witness whereof the National Insurance Company of Cincinnati have caused these presents to be signed by their president, and attested by their secretary, at their office, in the city of Cincinnati, State of Ohio, this 31st day of October, 1870.

JOHN M. HARTWELL,
President.

(Signed) R. E. LEE, *Secretary.*

"G." R. S. Semple's deposition.

(Signed) R. S. FULTON,
U. S. Com'r.

For value received, hereby transfer, assign, and set over unto , and assigns, all right, title, and interest in this policy of insurance, and all benefit and advantage to be derived therefrom, subject to the deduction therefrom of all claims due this company at this date by the assignor, and thereafter by the acceptor.

Witness hand and seal this day of .

Sealed and delivered in presence of—

Approved:

[SEAL.]

, *Secretary.*

For value received, hereby transfer, assign, and set over unto , and assigns, all right, title, and interest in this policy of insurance, and all benefit and advantage to be derived therefrom, subject to the deduction therefrom of all claims due this company at this date by the assignor, and thereafter by the acceptor.

Witness hand and seal this day of .

[SEAL.]

Sealed and delivered in presence of—

Approved:

Secertary.

For value received, hereby transfer, assign, and set over unto , and assigns, all right, title, and interest in this policy of insurance, and all benefit and advantage to be derived therefrom, subject to the deductions therefrom of all claims due this company at this date by the assignor, and thereafter by the acceptor.

Witness hand and seal this day of .

[SEAL.]

Sealed and delivered in presence of—

Approved:

Secretary.

(Indorsed:) Vessel, st'r R. E. Lee. No. 1050. Enterprise Insurance Company of Cincinnati, O., to John W. Cannon, for a/c present owners. Valuation, $75,000; limit, $50,000; $5,000, @ 10, $500. Expires, Oct. 31st, 1871. Macbrair & Sons, 141 Race st., Cin.

500*h* KCRESCENT INSURANCE CO. OF CINCINNATI, OHIO.

No. 1538. Vessel, Robert E. Lee. Proposition, No. 4803; valuation, $75,000; sum insured, $2,500; premium, $250.00. On account of present owners. Loss, if any, payable to assured.

This policy of insurance witnesseth that the Western Insurance Company of Cincinnati, by these presents, do cause John W. Cannon to be insured in the sum of not exceeding twenty-five hundred dollars, lost or not lost, upon the st'r Rob't E. Lee, wherever she is in safety at noon of the 31st day of October, 1870, and from thence to noon of the 31st day of October, 1871, when this policy shall expire, unless sooner terminated or made void by conditions hereinafter expressed.

With permission to navigate the Ohio & Mississippi Rivers & their tributaries, except the Missouri, Arkansas, & Red Rivers.

Underwriter's obligation.

This company having been paid the consideration for this insurance, at the rate of 10 per cent., for the term of this policy, the said steamboat hereby insured, being valued at seventy-five thousand dollars.

Touching the perils, which the said insurance company is content to bear, and take upon it, under this policy, they are of the seas, lakes, rivers, canals, fires, and jettisons that shall come to the damage of said vessel, or any part thereof. And, in case of loss, such loss to be paid in sixty days afrer proof thereof, proof of interest and adjustment exhibited to the assurers, all sums owing by the assured to the company, being first deducted, or secured to the satisfaction of the assurers, before such loss shall be paid. But no loss, by special average, shall, in any case, be paid, unless the necessary repairs required solely by the disaster (exclusive of the cost of taking the vessel on the docks or hauling her out on marine ways, the cost of dock or railway fees while being repaired, and the cost of ascertaining and proving the loss, shall amount to five per cent. on the value of said vessel as specified in this policy.

This policy shall become void if any further insurance has been or shall be made on said vessel which, together with this insurance, shall exceed the sum of fifty thousand dollars, or upon any assignment of this policy, or charter of said vessel, unless notice is given to this company, and the same be approved and indorsed hereon in writing by the company; also during any time said vessel shall carry hemp on deck, unless the same be covered by bagging, or unslacked lime in the hold, or cotton on the hurricane deck; and also in case the note or other obligation given for the premium herefor be not paid within fifteen days after maturity and demand, and remain void during the time the same shall be overdue and unpaid. It is also agreed that the insurance by this policy shall cease during the time said vessel shall be taken and held in possession or custody, under any proceedings in law or equity, except during the first five days after seizure. No assignment or transfer hereof shall, in any case, relieve the insured or property hereby insured from any or all of the conditions expressed in this policy, and a violation or non-compliance with any of such conditions, either by the assignee or assignor, before or after the assignment, shall vitiate this policy.

Warranted by the assured that this company shall be free from all claim for loss or damage arising from or caused by theft, bar-

ratry, robbery, civil commotion, war, or piracy, or during any time said vessel shall be seized and taken possession of or detained by any act of the United States Government or other legally excluded causes; from damage that may be done by the vessel hereby insured to any other vessel or property; from any loss or damage occasioned by said vessel being improperly laden, by the bursting of boilers, the collapsing of flues, explosion of gunpowder, the derangement or breaking of the engine or machinery, or any consequence resulting therefrom, unless the same be caused by unavoidable external violence; from any loss or damage occasioned by ice between Bissell's Point and Picotte street, in the port of St. Louis, Mo.; from loss or damage occasioned by the use on board of coal oil or spirit gas in any form; from any consequences of said vessel having been engaged in an illicit or prohibited trade at any time whatever, and from any loss caused by the use of an open light of any kind in the hold; that there shall be no abandonment, as for a total loss, on account of said vessel grounding or being otherwise detained, or in consequence of any loss or damage, unless the injury sustained be equivalent to fifty per centum of the agreed value in this policy; that the aforesaid vessel is and shall be at all times during the continuance of this policy tight and sound, sufficiently found in tackle and appurtenances thereto, competently provided with master, officers, and crew, and in all other things and means necessary for the safe employment thereof; and that said vessel shall be run and navigated upon the aforesaid privileged waters, as is usual for boats of her class, in the usual prosecution of business, and that this policy shall be null and void while said vessel shall be unseaworthy, or condemned as unseaworthy, except while proceeding to a port for repairs, and during the time of such repairs; that in the night-time said vessel shall show in a conspicuous place one or more lights so as to warn and give notice to boats and approaching vessels; and that while in port or laid up at least two competent watchmen shall be employed, one of whom shall be on duty at all times; that in all cases of loss or damage the assured shall furnish to said company proofs of the same within thirty days from the date thereof; and all claims under this policy shall be barred unless prosecuted within one year from the same date, and no loss shall be paid unless the assured shall give immediate notice in case of accident or loss to the company; and that the liability of this company for all losses during the continuance of this policy shall not in the aggregate exceed the sum hereby insured.

Obligations of the assured.

In case of any loss or misfortune resulting from any peril insured against, the party insured shall use every effort for the safeguard and recovery of said vessel, and if recovered to cause the same to be forthwith repaired, and in case of neglect or refusal on the part of the assured, his agents or assigns, to adopt prompt and efficient measures for the safeguard and recovery of said vessel, then the said insurers are hereby authorized to interpose and recover said vessel and cause the same to be repaired for account of the insured, to the charges of which the said insurance company will contribute, in proportion as the sum herein insured bears to the agreed value in this policy, but in no case whatever shall the assured have the right to abandon until it shall be ascertained that the recovery and repairs of said vessel are impracticable, nor sell the wreck or any portion thereof without the consent of this company; and the

Adjustment of losses.

acts of the assured or assurers, or of their joint or respective agents, in preserving, securing, or saving the property insured, in case of danger or disaster, shall not be considered or held to be a waiver or acceptance of an abandonment. In case of accident rendering repairs necessary, the master or owner shall cause the said vessel to be surveyed by a competent inspector, who shall, under oath, note particularly the damage sustained and the repairs required thereby. All claims for repairs shall be accompanied by the vouchers, and by the oath or affirmation of the master that such expenses were actually incurred and made necessary by the accident which may have happened to said vessel.

No deduction will be made from claims for repairs to the hull or machinery of said vessel during the first two years from the date of her original custom-house survey; but from all claims for repairs to the cabin or tackle or apparel or furniture or for replacing the same the assured shall deduct one-third, that being the agreed difference in value between new and old materials, and the same deduction shall be made from claims for repairs to the hull and machinery after the first two years as aforesaid.

No allowance will be made for wages or provisions paid or furnished to officers or crew while the vessel is detained by any accident or while undergoing any repairs, except for the time they are actually employed for the safety of the vessel and cargo, for which they will be included in the general average account. Whenever this company shall pay any loss, the assured agrees to assign over to said company all right to recover satisfaction therefor from any other person or persons, town, or other corporation, or the United States Government, or to prosecute therefor at the charge and for account of the company, if requested; and the said company shall be entitled to such proportion of said damages recovered as the amount insured by them bears to the valuation of said vessel.

In case of return premium at the request of the assured a deduction shall only be made on the whole months of unexpired time, the earned time to be charged for at short rates.

In witness whereof the Western Insurance Company of Cincinnati have caused these presents to be signed by their president, and attested by their secretary, at their office, in the city of Cincinnati, State of Ohio, this 31st day of October, 1870.

(Signed) J. W. BATCHELOR,
President.

F. X. RENO,
Secretary.

"H." R. S. Semple's deposition.

(Signed) R. S. FULTON,
U. S. Com'r.

For value received hereby transfer, assign, and set over unto , and assigns, all right, title, and interest in this policy of insurance, and all benefit and advantage to be derived therefrom, subject to the deduction therefrom of all claims due this company, at this date, by the assignor, and thereafter by the acceptor.

Witness hand and seal this day of .

[SEAL.]

Sealed and delivered in the presence of—

Approved:

, *Secretary.*

For value received hereby transfer, assign, and set over unto , and assigns, all right, title, and interest in this policy of insurnnce, and all benefit and advantage to be derived therefrom, subject to the deduction therefrom of all claims due this company, at this date, by the assignor, and thereafter by the acceptor.

Witness hand and seal this day of .

[SEAL.]

Sealed and delivered in presence of—

Approved:

, *Secretary.*

For value received hereby transfer, assign, and set over unto , and assigns, all right, title, and interest in this policy of insurance, and all benefit and advantage to be derived therefrom, subject to the deduction therefrom of all claims due this company, at this date, by the assignor, and thereafter by the acceptor.

Witness hand and seal this day of .

[SEAL.]

Sealed and delivered in presence of—

Approved:

, *Secretary.*

(Indorsed:) Vessel, . No. . Crescent Insurance Company of Cincinnati, O., to . Valuation, $; limit, $; $, @ , $. Expires . Miami Printing and Publishing Co., corner Bedinger street and Miami Canal, Cincinnati, O.

500*i* NATIONAL INSURANCE COMPANY

[Cut of steamboat.]

OF CINCINNATI, OHIO.

No. 1039. Vessel, R. E. Lee. Proposition No. 32476; valuation, $75,000; sum insured, $3,000; premium, $300.00. On account of the present owners. Loss, if any, payable to John W. Cannon.

This policy of insurance witnesseth that the National Insurance Company of Cincinnati, by these presents, do cause John W. Cannon to be insured in the sum not exceeding three thousand dollars, lost or not lost, upon the steamboat R. E. Lee, wherever she is in safety at noon of the 31st day of October, 1870, and from thence to noon of the 31st day of October, 1871, when this policy shall expire, unless sooner terminated or made void by conditions hereinafter expressed.

With permission to navigate the Ohio & Mississippi Rivers & their tributaries, except the Missouri, Arkansas, & Red Rivers. Coal-oil clause waived.

Underwriter's obligations.

This company having been paid the consideration for this insurance, at the rate of 10 per cent., for the term of this policy, the said steamboat R. E. Lee hereby insured being valued at seventy-five thousand dollars.

Touching the perils which the said insurance company is content to bear and take upon it under this policy, they are of the seas, lakes, rivers, canals, fires, and jettisons that shall come to the damage of said vessel or any part thereof. And, in case of loss, such loss to be paid in sixty days after proof thereof, proof of interest and adjustment exhibited to the assurers, all sums owing by the assured to the company being first deducted, or secured to the satisfaction of the assurers, before such loss shall be paid. But no loss by special average shall in any case be paid unless the necessary repairs required solely by the disaster (exclusive of the cost of taking the vessel on the docks or hauling her out on marine-ways, the cost of dock or railway fees while being repaired, and the cost of ascertaining and proving the loss) shall amount to five per cent. on the value of said vessel as specified in this policy.

This policy shall become void if any further insurance has been or shall be made on said vessel which, together with this insurance, shall exceed the sum of fifty thousand dollars, or upon any assignment of this policy or charter of said vessel, unless notice is given to this company, and the same be approved and endorsed hereon in writing by the company; also during any time said vessel shall carry hemp on deck, unless the same be covered by bagging, or unslacked lime in the hold, or cotton on the hurricane deck; and also in case the note or other obligation given for the premium herefor be not paid within fifteen days after maturity and demand, and remain void during the time the same shall be overdue and unpaid. It is also agreed that the insurance by this policy shall cease during the time said vessel shall be taken and held in possession or custody under any proceedings in law or equity, except during the first five days after seizure. No assignment or transfer hereof shall in any case relieve the insured or property hereby insured from any or all of the conditions expressed in this policy, and a violation or non-compliance with any of such conditions, either by the assignee or assignor, before or after the assignment, shall vitiate this policy.

Warranted by the assured that this company shall be free from all claim for loss or damage arising from or caused by theft, barratry, robbery, civil commotion, war, or piracy, or during any time said vessel shall be seized and taken possession of or detained by any act of the United States Government, or other legally-excluded causes; from damage that may be done by the vessel hereby insured to any other vessel or property; from any loss or damage occasioned by said vessel being improperly laden, by the bursting of boilers, the collapsing of flues, explosion of gunpowder, the derangement or breaking of the engine or machinery, or any consequence resulting therefrom, unless the same be caused by unavoidable external violence; from any loss or damage occasioned by ice between Bissell's Point and the bridge piers in the port of St. Louis, Mo.; from the loss or damage occasioned by the use on board of coal-oil or spirit-gas in any form; from any consequences of said vessel having been engaged in any illicit or prohibited trade at any time whatever; and from any loss caused by the use of an open light of any kind in the hold; that there shall be no abandonment,

Obligations of the assured.

as for a total loss, on account of said vessel grounding or being otherwise detained, or in consequence of any loss or damage, unless the injury sustained be equivalent to fifty per centum of the agreed value in this policy; that the aforesaid vessel is, and shall be at all times during the continuance of this policy, tight and sound, sufficiently found in tackle and appurtenances thereto, competently provided with master, officers, and crew, and in all other things and means necessary for the safe employment thereof; and that said vessel shall be run and navigated upon the aforesaid privileged waters, as is usual for boats of her class, in the usual prosecution of business; and that this policy shall be null and void while said vessel shall be unseaworthy, or condemned as unseaworthy, except while proceeding to a port for repairs, and during the time of such repairs; that in the night-time said vessel shall show in a conspicuous place one or more lights, so as to warn and give notice to boats and approaching vessels; and that, while in port or laid up, at least two competent watchmen shall be employed, one of whom shall be on duty at all times; that in all cases of loss or damage the assured shall furnish to said company proofs of the same within thirty days from the date thereof; and all claims under this policy shall be barred unless prosecuted within one year from the same date, and no loss shall be paid unless the assured shall give immediate notice, in case of accident or loss, to the company, and that the liability of this company for all losses during the continuance of this policy shall not, in the aggregate, exceed the sum hereby insured.

In case of any loss or misfortune, resulting from any peril insured against, the party insured shall use every effort for the safeguard and recovery of said vessel, and, if recovered, to cause the same to be forthwith repaired, and in case of neglect or refusal on the part of the assured, their agents, or assigns, to adopt prompt and efficient measures for the safeguard and recovery of said vessel, then the said insurers are hereby authorized to interpose and recover said vessel, and cause the same to be repaired for account of the insured, to the charge of which the said insurance company will contribute, in proportion as the sum herein insured bears to the agreed value in this policy; but in no case whatever shall the assured have the right to abandon until it shall be ascertained that the recovery and repairs of said vessel are impracticable, nor sell the wreck, or any portion thereof, without the consent of this company; and the acts of the assured or assurers, or of their joint and respective agents, in preserving, securing, or saving the property insured, in case of danger or disaster, shall not be considered or held to be a waiver or acceptance of an abandonment. In case of accident rendering repairs necessary, the master or owner shall cause the said vessel to be surveyed by a competent inspector, who shall, under oath, note particularly the damage sustained and the repairs required thereby. All claims for repairs shall be accompanied by the vouchers, and by the oath or affirmation of the master that such expenses were actually incurred and made necessary by the accident which may have happened to said vessel.

No deduction will be made from claims for repairs to the hull and machinery, during the first two years from the date of her original custom-house survey, but from all claims for repairs to the cabin, or tackle, or apparel, or furniture, or for replacing the same, the

Adjustment of losses.

assured shall deduct one-third, that being the agreed difference in value between new and old materials, and the same deduction shall be made from claims for repairs to the hull and machinery, after the first two years, as aforesaid.

No allowance will be made for wages or provisions paid or furnished to officers or crew while the vessel is detained by any accident, or while undergoing any repairs, except for the time they are actually employed for the safety of the vessel and cargo, for which they will be included in the general average account. Whenever this company shall pay any loss, the assured agrees to sign over to said company all right to recover satisfaction therefor from any other person or persons, town or other corporation, or the United States Government, or to prosecute therefor, at the charge and for account of the company, if requested. And the said company shall be entitled to such proportion of said damages recovered as the amount insured by them bears to the valuation of said vessel.

In case of return premium, at the request of the assured, a deduction shall only be made on the whole months of unexpired time; the earned time to be charged for at short rates.

In witness whereof the National Insurance Company of Cincinnati have caused these presents to be signed by their president, and attested by their secretary, at their office, in the city of Cincinnati, State of Ohio, this 31st day of October, 1870.

(Signed) JOHN BURGOYNE,
President.

(Signed) H. C. HORNER,
Secretary.

"I." R. S. Semple's deposition.

(Signed) R. S. FULTON,
U. S. Com'r.

For value received, hereby transfer, assign, and set over unto , and assigns, all right, title, and interest in this policy of insurance, and all benefit and advantage to be derived therefrom, subject to the deduction therefrom of all claims due this company, at this date, by the assignor, and thereafter by the acceptor.

Witness hand and seal this day of .

[SEAL.]

Sealed and delivered in presence of—

Approved:

, *Secretary.*

For value received, hereby transfer, assign, and set over unto , and assigns, all right, title, and interest in this policy of insurance, and all benefit and advantage to be derived therefrom, subject to the deduction therefrom of all claims due this company, at this date, by the assignor, and thereafter by the acceptor.

Witness hand and seal this day of .

[SEAL.]

Sealed and delivered in presence of—

Approved:

, *Secretary.*

For value received, hereby transfer, assign, and set over unto , and assigns, all right, title, and interest

in this policy of insurance, and all benefit and advantage to be derived therefrom, subject to the deduction therefrom of all claims due this company, at this date, by the assignor, and thereafter by the acceptor.

Witness hand and seal this day of .

[SEAL.]

Sealed and delivered in presence of—

Approved:

, *Secretary.*

(Indorsed:) Vessel, R. E. Lee. No. 1039. National Insurance Company of Cincinnati, O., to John W. Cannon. Valuation, $75,000; limit, $50,000; $3,000, @ 10, $300. Expires Oct. 31st, 1871. Macbrair & Sons, 141 Race st., Cin.

500*j* WESTERN INSURANCE CO. OF CINCINNATI, OHIO.

No. 861. Vessel, st'r R. E. Lee. Proposition No. 31028. Valuation, $75,000; sum insured, $5,000.00; premium, $500.00. On account of present owners. Loss, if any, pay'ble to J. W. Cannon.

This policy of insurance witnesseth that the Western Insurance Company of Cincinnati, by these presents, do cause Jno. W. Cannon to be insured in the sum of not exceeding five thousand dollars, lost or not lost, upon the st'r R. E. Lee, wherever she is in safety at noon of the 31st day of October, 1870, and from thence to noon of the 31st day of October, 1871, when this policy shall expire, unless sooner terminated or made void by conditions hereinafter expressed.

With permission to navigate the Ohio & Mississippi Rivers & tributaries, except the Missouri, Arkansas, & Red Rivers. Coal-oil clause waived.

Underwriter's obligations.

This company having been paid the consideration for this insurance, at the rate of ten per cent., for the term of this policy, the said steamer R. E. Lee hereby insured being valued at seventy-five thousand dollars.

Touching the perils which the said insurance company is content to bear and take upon it under this policy, they are of the seas, lakes, rivers, canals, fires, and jettisons that shall come to the damage of said vessel, or any part thereof. And in case of loss, such loss to be paid in sixty days after proof thereof, proof of interest and adjustment exhibited to the assurers, all sums owing by the assured to the company being first deducted, or secured to the satisfaction of the assurers, before such loss shall be paid. But no loss, by special average, shall, in any case, be paid unless the necessary repairs required solely by the disaster (exclusive of the cost of taking the vessel on the docks or hauling her out on marine ways, the cost of dock or railway fees while being repaired, and the cost of ascertaining and proving the loss) shall amount to five per cent. on the value of said vessel as specified in this policy.

This policy shall become void if any further insurance has been or shall be made on said vessel which, together with this insurance, shall exceed the sum of fifty thousand dollars, or upon any assignment of this policy, or charter of said vessel, unless notice is given to this company, and the same be approved and indorsed hereon in writing by the company; also during any time said vessel shall carry hemp on deck, unless the same be covered by bagging, or

unslacked lime in the hold, or cotton on the hurricane deck; and also in case the note or other obligation given for the premium herefor be not paid within fifteen days after maturity and demand, and remain void during the time the same shall be overdue and unpaid. It is also agreed that the insurance by this policy shall cease during the time said vessel shall be taken and held in possession or custody under any proceedings in law or equity, except during the first five days after seizure. No assignment or transfer hereof shall, in any case, relieve the insured or property hereby insured from any or all of the conditions expressed in this policy; and a violation or non-compliance with any of such conditions, either by the assignee or assignor, before or after the assignment, shall vitiate this policy.

Obligations of the assured.

Warranted by the assured that this company shall be free from all claim for loss or damage arising from or caused by theft, barratry, robbery, civil commotion, war, or piracy, or during any time said vessel shall be seized and taken possession of or detained by any act of the United States Government, or other legally excluded causes; from damage that may be done by the vessel hereby insured to any other vessel or property; from any loss or damage occasioned by said vessel being improperly laden, by the bursting of boilers, the collapsing of flues, explosion of gunpowder, the derangement or breaking of the engine or machinery, or any consequence resulting therefrom, unless the same be caused by unavoidable external violence; from any loss or damage occasioned by ice between Bissell's Point and Picotte street in the port of St. Louis, Mo.; from loss or damage occasioned by the use on board of coal oil or spirit gas in any form; from any consequences of said vessel having been engaged in an illicit or prohibited trade at any time whatever; and from any loss caused by the use of an open light of any kind in the hold; that there shall be no abandonment, as for a total loss, on account of said vessel grounding or being otherwise detained, or in consequence of any loss or damage, unless the injury sustained be equivalent to fifty per centum of the agreed value in this policy; that the aforesaid vessel is, and shall be at all times during the continuance of this policy, tight and sound, sufficiently found in tackle and appurtenances thereto, competently provided with master, officers, and crew, and in all other things and means necessary for the safe employment thereof; and that said vessel shall be run and navigated upon the aforesaid privileged waters, as is usual for boats of her class, in the usual prosecution of business; and that this policy shall be null and void while said vessel shall be unseaworthy, or condemned as unseaworthy, except while proceeding to a port for repairs, and during the time of such repairs; that in the night-time said vessel shall show in a conspicuous place one or more lights, so as to warn and give notice to boats and approaching vessels; and that, while in port or laid up, at least two competent watchmen shall be employed, one of whom shall be on duty at all times; that in all cases of loss or damage the assured shall furnish to said company proofs of the same within thirty days from the date thereof; and all claims under this policy shall be barred, unless prosecuted within one year from the same date; and no loss shall be paid unless the assured shall give immediate notice in case of accident or loss to the company; and that the liability of this company for all losses during the continuance of this policy shall not in the aggregate exceed the sum hereby insured.

In case of any loss or misfortune, resulting from any peril insured against, the party insured shall use every effort for the safeguard and recovery of said vessel, and if recovered to cause the same to be forthwith repaired; and in case of neglect or refusal on the part of the assured agents or assigns, to adopt prompt and efficient measures for the safeguard and recovery of said vessel, then the said insurers are hereby authorized to interpose and recover said vessel and cause the same to be repaired for account of the insured, to the charges of which the said insurance company will contribute, in proportion as the sum herein insured bears to the agreed value in this policy; but in no case whatever shall the assured have the right to abandon, until it shall be ascertained that the recovery and repairs of said vessel are impracticable, nor sell the wreck or any portion thereof without the consent of this company; and the acts of the assured or assurers, or of their joint or respective agents, in preserving, securing, or saving the property insured, in case of danger or disaster, shall not be considered or held to be a waiver or acceptance of an abandonment. In case of accident rendering repairs necessary, the master or owner shall cause the said vessel to be surveyed by a competent inspector, who shall, under oath, note particularly the damage sustained, and the repairs required thereby. All claims for repairs shall be accompanied by the vouchers, and by the oath or affirmation of the master that such expenses were actually incurred and made necessary by the accident which may have happened to said vessel.

Adjustment of losses.

No deduction will be made from claims for repairs to the hull or machinery of said vessel during the first two years from the date of her original custom-house survey; but from all claims for repairs to the cabin, or tackle, or apparel, or furniture, or for replacing the same, the assured shall deduct one-third, that being the agreed difference in value between new and old materials; and the same deduction shall be made from claims for repairs to the hull and machinery, after the first two years as aforesaid.

No allowance will be made for wages or provisions paid or furnished to officers or crew while the vessel is detained by any accident, or while undergoing any repairs, except for the time they are actually employed for the safety of the vessel and cargo, for which they will be included in the general average account. Whenever this company shall pay any loss, the assured agrees to assign over to said company all right to recover satisfaction therefor from any other person or persons, town or other corporation, or the United States Government, or to prosecute therefor, at the charge and for account of the company, if requested. And the said company shall be entitled to such proportion of said damages recovered as the amount insured by them bears to the valuation of said vessel.

In case of return premium, at the request of the assured, a deduction shall only be made on the whole months of unexpired time; the earned time to be charged for at short rates.

In witness whereof the Western Insurance Company of Cincinnati have caused these presents to be signed by their president, and attested by their secretary, at their office, in the city of Cincinnati, State of Ohio, this 31st day of October, 1870.

T. F. ECKERT, *President.*

J. T. COLLING, *Secretary.*

"K." R. S. Semple's deposition.

(Signed) R. S. FULTON,
U. S. Com'r.

For value received, hereby transfer, assign, and set over unto , and assigns, all right, title, and interest in this policy of insurance, and all benefit and advantage to be derived therefrom, subject to the deduction therefrom of all claims due this company, at this date, by the assignor, and thereafter by the acceptor.
Witness hand and seal this day of .

[SEAL.]

Sealed and delivered in presence of—
Approved:

, *Secretary.*

For value received, hereby transfer, assign, and set over unto , and assigns, all right, title, and interest in this policy of insurance, and all benefit and advantage to be derived therefrom, subject to the deduction therefrom of all claims due this company, at this date, by the assignor, and thereafter by the acceptor.
Witness hand and seal this day of .

[SEAL.]

Sealed and delivered in presence of—
Approved:

, *Secretary.*

For value received, hereby transfer, assign, and set over unto , and assigns, all right, title, and interest in this policy of insurance, and all benefit and advantage to be derived therefrom, subject to the deduction therefrom of all claims due this company, at this date, by the assignor, and thereafter by the acceptor.
Witness hand and seal this day of .

[SEAL.]

Sealed and delivered in presence of—
Approved:

, *Secretary.*

(Indorsed:) Vessel, . No. . Western Insurance Company of Cincinnati, Ohio, to . Valuation, $; limit, $; $, @ , $. Expires . Miami Printing and Publishing Co., corner Bedinger street and Miami Canal, Cincinnati, O.

500*k* (Duplicate.)

OHIO VALLEY INSURANCE CO. OF CINCINNATI, OHIO.

No. 3578.] [Prop.

This policy of insurance witnesseth that the Firemen's Insurance Company of Cincinnati, by these presents, do cause John W. Cannon, for pres't owners, to be insured in the sum of not exceeding three thousand dollars, lost or not lost, upon the S. B. R. E. Lee, wherever she is in safety at noon of the 31st day of October, 1870, and from thence to noon of the 31st day of October, 1871, when this policy shall expire, unless sooner terminated or made void by conditions hereinafter expressed.

With permission to navigate the Ohio & Mississippi Rivers & their tributaries, excepting the Missouri, Red, and Arkansas Rivers. Coal-oil clause waived. Loss, if any, payable to assured.

Underwriter's obligations.

This company having been paid the consideration for this insurance at the rate of ten per cent., for the term of this policy, the said S. B. R. E. Lee, hereby insured being valued at seventy-five thousand dollars.

Touching the perils which the said insurance company is content to bear and take upon it under this policy, they are of the seas, lakes, rivers, canals, fires, and jettisons that shall come to the damage of said vessel, or any part thereof; and in case of loss, such loss to be paid in sixty days after proof thereof, proof of interest and adjustment exhibited to the assurers, all sums owing by the assured to the company being first deducted, or secured to the satisfaction of the assurers, before such loss shall be paid; but no loss, by special average, shall, in any case, be paid unless the necessary repairs required solely by the disaster (exclusive of the cost of taking the vessel on the docks, or hauling her out on marine ways, the cost of dock or railway fees while being repaired, and the cost of ascertaining and proving the loss) shall amount to five per cent. on the value of said vessel, as specified in this policy.

This policy shall become void if any further insurance has been or shall be made on said vessel which, together with this insurance, shall exceed the sum of fifty thousand dollars, or upon any assignment of this policy or charter of said vessel, unless notice is given to this company, and the same be approved and indorsed hereon in writing by the company; also during any time said vessel shall carry hemp on deck, unless the same be covered by bagging, or unslacked lime in the hold, or cotton on the hurricane deck; and, also in case the note or other obligation given for the premium herefor be not paid within fifteen days after maturity and demand, and remain void during the time the same shall be overdue and unpaid. It is also agreed that the insurance by this policy shall cease during the time said vessel shall be taken and held in possession or custody under any proceedings in law or equity, except during the first five days after seizure. No assignment or transfer hereof shall, in any case, relieve the insured or property hereby insured from any or all of the conditions expressed in this policy; and a violation or non-compliance with any of such conditions, either by the assignee or assignor, before or after the assignment, shall vitiate this policy.

Warranted by the assured that this company shall be free from all claim for loss or damage arising from or caused by theft, barratry, robbery, civil commotion, war, or piracy, or during any time said vessel shall be seized and taken possession of or detained by any act of the United States Government, or other legally excluded causes, from damage that may be done by the vessel hereby insured to any other vessel or property; from and loss or damage occasioned by said vessel being improperly laden, by the bursting of boilers, the collapsing of flues, explosion of gunpowder, the derangement or breaking of the engine or machinery, or any consequence resulting therefrom, unless the same be caused by unavoidable external violence; from any loss or damage, occasioned by ice between Bissell's Point and the bridge in the port of St. Louis, Mo.; from loss or damage occasioned by the use on board of coal-oil or spirit-gas in any form; from any consequences of said vessel having been engaged in an illicit or prohibited trade at any time whatever; and from any loss caused by the use of an open light of

Obligations of the assured.

any kind in the hold; and there shall be no abandonment, as for a total loss, on account of said vessel grounding or being otherwise detained, or in consequence of any loss or damage, unless the injury sustained be equivalent to fifty per centum of the agreed value in this policy; that the aforesaid vessel is, and shall be at all times during the continuance of this policy, tight and sound, sufficiently found in tackle and appurtenances thereto, competently provided with master, officers, and crew, and in all other things and means necessary for the safe employment thereof; and that said vessel shall be run and navigated upon the aforesaid privileged waters, as is usual for boats of her class, in the usual prosecution of business; and that this policy shall be null and void while said vessel shall be unseaworthy, or condemned as unseaworthy, except while proceeding to a port for repairs, and during the time of such repairs; that in the night-time said vessel shall show in a conspicuous place one or more lights, so as to warn and give notice to boats and approaching vessels; and that while in port, or laid up, at least two competent watchmen shall be employed, one of whom shall be on duty at all times. That in all cases of loss or damage, the assured shall furnish to said company proofs of the same within thirty days from the date thereof; and and all claims under this policy shall be barred unless prosecuted within one year from the same date; and no loss shall be paid unless the assured shall give immediate notice, in case of accident ol loss to the company; and that the liability of this company for alr losses during the continuance of this policy shall not in the aggregate exceed the sum hereby insured.

In case of any loss or misfortune, resulting from any peril insured against, the party insured shall use every effort for the safeguard and recovery of said vessel, and, if recovered, to cause the same to be forthwith repaired; and in case of neglect or refusal on the part of the assured, his agents or assigns, to adopt prompt and efficient measures for the safeguard and recovery of said vessel, then the said insurers are hereby authorized to interpose and recover said vessel, and cause the same to be prepared for account of the insured, to the charges of which the said insurance company will contribute, in proportion as the sum herein insured bears to the agreed value in this policy; but in no case whatever shall the assured have the right to abandon, until it shall be ascertained that the recovery and repairs of said vessel are impracticable, nor sell the wreck, or any portion thereof, without the consent of this company; and the acts of the assured or assurers, or of their joint or respective agents, in preserving, securing, or saving the property insured, in case of danger or disaster, shall not be considered or held to be a waiver or acceptance of an abandonment. In case of accident rendering repairs necessary, the master or owner shall cause the said vessel to be surveyed by a competent inspector, who shall, under oath, note particularly the damage sustained, and the repairs required thereby. All claims for repairs shall be accompanied by the vouchers, and by the oath or affirmation of the master that such expenses were actually incurred and made necessary by the accident which may have happened to said vessel.

No deduction will be made from claims for repairs to the hull or machinery of said vessel during the first two years from the date of her original custom-house survey; but from all claims for repairs to the cabin, or tackle, or apparel, or furniture, or for replac-

Adjustment of losses.

ing the same, the assured shall deduct one-third, that being the agreed difference in value between new and old materials; and the same deduction shall be made from claims for repairs to the hull and machinery, after the first two years as aforesaid.

No allowance will be made for wages or provisions paid or furnished to officers or crew while the vessel is detained by any accident, or while undergoing any repairs, except for the time they are actually employed for the safety of the vessel and cargo, for which they will be included in the general average account. Whenever this company shall pay any loss, the assured agrees to assign over to said company all right to recover satisfaction therefor from any other person or persons, town or other corporation, or the United States Government, or to prosecute therefor, at the charge and for account of the company, if requested; and the said company shall be entitled to such proportion of said damages recovered as the amount insured by them bears to the valuation of said vessel.

In case of return premium, at the request of the assured, a deduction shall only be made on the whole months of unexpired time; the earned time to be charged for at short rates.

In witness whereof the Ohio Valley Insurance Company of Cincinnati have caused these presents to be signed by their president and attested by their secretary, at their office, in the city of Cincinnati, State of Ohio, this thirty-first day of October, 1870.

(Signed) JAS. A. DEVON, *President.*

(Signed) CHAS. R. FOLGER, *Secretary.*

"L." R. S. Semple's deposition.

(Signed) R. S. FULTON,
U. S. Com'r.

For value received hereby transfer, assign, and set over unto , and assigns, all right, title, and interest in this policy of insurance, and all benefit and advantage to be derived therefrom, subject to the deduction therefrom of all claims due this company at this date by the assignor, and thereafter by the acceptor.

Witness hand and seal this day of .

[SEAL.]

Sealed and delivered in presence of—

Approved:

, *Secretary.*

For value received hereby transfer and set over unto , and assigns, all right, title, and interest in this policy of insurance, and all benefit and advantage to be derived therefrom, subject to the deduction therefrom of all claims due this company at this date by the assignor, and thereafter by the acceptor.

Witness hand and seal this day of .

[SEAL.]

Sealed and delivered in presence of—

Approved:

Secretary.

(Indorsed:) Vessel, R. E. Lee. No. 3578. Ohio Valley Insurance Company of Cincinnati, O., to John W. Cannon. Valuation, $75,000; limit, $50,000; $3,000, @ $300. Expires Oct. 31st, 1871. James A. Devon, pres't; Charles R. Folger, sec'y.

501 F. A. AUTENHEIMER, of sound mind and lawful age, being by me first duly sworn to testify the truth, the whole truth, and nothing but the truth, in answer to the interrogatories and cross-interrogatories hereto attached, deposes as follows:

Interrogatories-in-chief:

In answer to the first interrogatory, the witness says: My name is F. A. Autenheimer. I am thirty-nine years old. I am a pilot by occupation. I have been a licensed pilot on the Mississippi River since 1853, and commenced steering on that river before that—I think in 1849. I have piloted from Cincinnati to New Orleans during most of the time. I reside in Cincinnati.

In answer to the second interrogatory, the witness says: Yes; I do. The general course of boats running is to leave the wharf-boat and go over to the bar, and follow the bar around. That is the usual and proper course for an ascending boat at all stages of water. We always run the bar, because a boat always steers better there.

In answer to the third interrogatory, the witness says: The bar is on the left side of the river coming up. After rounding out from the wharf-boat to come up the river, a boat holds towards the bar on the Louisiana side, and makes a gradual crossing to the bar. "Rounding out" is not a proper phrase to use here. We just leave the wharf-boat and make a gradual crossing over to the bar. The main channel is on the bend side of the river above the wharf-boat.

502 There are mud lumps in the bend, and the channel is on the outside of those. In crossing over to the bar, and running around the bar, we run the left side of the channel.

In answer to the fourth interrogatory, the witness says: The bar commences three or four miles above the wharf-boat at Natchez, a little under the point, and ends a little below the wharf-boat. It is what we call rather a bluff bar; we can run within about seventy-five yards of the dry bar.

In answer to the fifth interrogatory, the witness says: Descending boats don't run the bar. They run the channel on the bend side. That is the proper place for a boat to run, after you get into the bend, and we run that course until we get within a mile or less of the wharf-boat. After you get down nearly to the wharf-boat, we don't run quite so close to the bend side; we bear out a little toward the middle of the river to avoid some shoal rocks that make out from below the wharf-boat. We run the shape of the bend, close to the bend. At two miles above the Natchez wharf-boat, a down-stream boat would be about fifty (50) yards from the bend shore, and she would run about that distance from shore until we get down a little above Brown's saw-mill; there we begin to get out a little further from the Mississippi side to avoid the mud lumps in the bend below. That's about a mile above the wharf-boat.

In answer to the sixth interrogatory, the witness says: I saw both boats at New Orleans afterwards, but I don't know that they were damaged by this collision, except from hearsay, and don't know the extent of the damage to the Potomac.

503 In answer to the seventh interrogatory, the witness says: I can't do that.

In answer to the eighth interrogatory, the witness says: The Potomac was repaired at New Orleans, but I know nothing about the extent of the repairs.

In answer to the ninth interrogatory, the witness says: I know nothing about it.

In answer to the tenth interrogatory, the witness says: I don't know.

In answer to the eleventh interrogatory, the witness says: I don't know of anything else I could state.

Cross-interrogatories.

In answer to the first cross-interrogatory, the witness says: Brown's saw-mill is on the Mississippi side, about a mile above the Natchez wharf-boat.

In answer to the second cross-interrogatory, the witness says: I do not.

In answer to the third cross-interrogatory, the witness says: I do not know.

In answer to the fourth cross-interrogatory, the witness says: That I don't know.

In answer to the fifth cross-interrogatory, the witness says: I don't know.

504 In answer to the sixth cross-interrogatory, the witness says: I have forgotten now. I went down right ahead of her, too; I think there was a good stage of water, but cannot remember the number of feet.

In answer to the seventh cross-interrogatory, the witness says: She would start out from the wharf-boat and make a gradual crossing to the bar, and then follow the bar; she would follow the bar about seventy-five yards from the dry bar. That would be the proper place for her to run up stream. After you get nearly up to the head of the bar, she wouldn't run so close.

In answer to the eighth cross-interrogatory, the witness says: The coal-boats are a little above the wharf-boat, and stand out a little further than the wharf-boat. There is a coal-yard there. We have to get out into the river some to pass up from the wharf-boat, or to come into it; that would be our natural course anyhow, for there is an eddy and some lumps from there up to Brown's. The lumps continue on nearly up to Brown's, and the eddy is where the coal-boats lay. The water boils nearly all the way up to Brown's—that is, in the bend.

In answer to the ninth cross-interrogatory, the witness says: I suppose he means how near to the bar. The Louisiana shore and the bar are different. She could be safely navigated within seventy-five yards of the dry bar.

In answer to the tenth cross-interrogatory, the witness says: I do; and have so stated.

505 In answer to the eleventh cross-interrogatory, the witness says: From above Brown's down to the wharf-boat I suppose there would be a width of from 300 to 400 yards, within which a boat could be safely navigated. The lumps come in above the wharf-boat, but the bar on the opposite side gets narrower, and the river is wider there, so that the distance is about the same.

In answer to the twelfth cross-interrogatory, the witness says: I do not understand that question. It is "point" all along above there. The main point is the head of the bar, about four miles above the wharf-boat.

In answer to the thirteenth cross-interrogatory, the witness says: I do not know.

In answer to the fourteenth cross-interrogatory, the witness says: I don't know that I understand the question. It would depend on the kind of a night it was and other circumstances.

In answer to the fifteenth cross-interrogatory, the witness says: It would be pretty hard to tell. It depends on the height of a steamboat and her chimneys, and on the kind of night. I can't answer the question, as the position of neither boat is fixed.

In answer to the sixteenth cross-interrogatory, the witness says: It would be pretty hard to give the landmarks. The boat would
506 be running the shape of the bend, and pointing toward the Mississippi side. I think you would be holding on the Mississippi side at that distance. From the wharf-boat up to Brown's there is a pretty straight reach, but a little above Brown's it commences to turn. When you get down a little below Brown's saw-mill, say about half way between Brown's and the wharf-boat, and along there, you would hold on the Louisiana point, and by the time you get to the wharf-boat you would be holding a little above the point.

In answer to the seventeenth cross-interrogatory, the witness says: A side-wheel boat would round in to land at the wharf-boat. They would commence to get out, so as to round in, about half a mile above the wharf-boat, and would round in about abreast of the river. As a usual thing they would not have to bear out much for the purpose of rounding in.

In answer to the eighteenth cross-interrogatory, the witness says: I didn't see the collision, and can't answer that question. Judging from the way the boats were wounded when I saw them at New Orleans their bows came in contact. The Lee was wounded, from the looks of her dock, on the larboard side, about twenty feet aft of her stem. I just went across the bow of the Potomac, and passed by the Lee on a boat, and didn't examine the injuries done to either of them.

In answer to the nineteenth cross-interrogatory, the witness says: I can't answer.

507 In answer to the twentieth cross-interrogatory, the witness says: I don't know about the extent of the repairs to the Potomac. I believe she was repaired at Algiers.

F. A. AUTENHEIMER.

Subscribed in my presence, after being by me read over to the said deponent, and sworn to before me this 4th day of February, 1873.

R. S. FULTON,
U. S. Com'r, S. D. O.

JAMES M. SEEDS, of sound mind and lawful age, being by me first solemnly sworn to testify the truth, the whole truth, and nothing but the truth, in answer to the interrogatories-in-chief and cross-interrogatories hereto attached, deposes as follows:

Interrogatories-in-chief:

In answer to the first interrogatory, the witness says: My name is James M. Seeds. I am in my 55th year. I reside in the city of Cincinnati. I am a steamboat pilot by occupation, from Cincinnati to New Orleans, from St. Louis to New Orleans, and on the Arkansas River. I have been a licensed pilot ever since licenses were issued under the law of 1852, on the Mississippi River, and was a pilot on the Mississippi River before that. I have been on the river in different capacities ever since January or February, 1832; most of that time on the Mississippi River.

In answer to the second interrogatory, the witness says: Well, the way I run up there, and the usual course for boats, after leaving
508 the wharf-boat, is to swing or run across the river to the bar,

and run up the bar. I never knew any other way of running it. That is the way I was learnt, the course I have pursued, and the way I have always seen boats pursue. If the river is high and the current strong I make a shorter crossing. At a medium stage I make a gradual crossing, striking the bar somewhere about four hundred yards above the wharf-boat, and then from that point keep the shape of the bar around. A large heavy boat would not hug the bar so closely as a light and small boat. She would put about two-thirds of the width of the river between the mud lumps and the bar shore on her starboard side coming up. A very large boat could do that with perfect safety, and that would be her proper place in my opinion. The bar is pretty bluff above the wharf-boat for some distance, and an ordinary steamboat can run within fifteen or twenty yards of it with safety, and in low water could land against it.

In answer to the third interrogatory, the witness says: Well, above the wharf-boat and at the wharf-boat there is a little slack water, caused by the mud lumps projecting into the channel above, and in this slack water some coal-flats generally lie above the wharf-boat. We swing out a little from the wharf-boat coming up and go over to the bar. We hold toward the Louisiana side until we get about four hundred yards above the wharf-boat, and then we follow the bar around on the bar side of the channel. The bar is on the Louisiana side of the river, and the channel is nearest the Mississippi shore.

509 There is a space there where boats could be safely navigated at the lowest stage of water, and at the narrowest point of about three hundred (300) yards. From the Mississippi shore to the dry bar, over lumps and all, I should think was about five hundred (500) yards at the narrowest channel point.

In answer to the fourth interrogatory the witness says: I never gave much attention to the length of it, but I should think it begins about two or three miles above the wharf-boat, and ends about opposite the wharf-boat. The lower portion of the bar is a bluff bar, and the upper portion of it is flat. Down opposite the mud lumps, which commence about Brown's and end just above the wharf-boat, the bar is pretty bluff. The bar forms what we call a knuckle, about opposite Brown's, and the river is pretty straight from there down to the wharf-boat.

In answer to the fifth interrogatory the witness says: When we get over from the Louisiana shore to the Mississippi shore, at the head of the bar, we keep pretty close to the Mississippi shore (say within 30 or 50 yards is the usual steering distance) until we get down to about abreast of Brown's house, then we straighten down, holding out in the river a little, on a point of the hill on the Mississippi side below town. That line takes us just outside and to the right of the mud lumps. If, in going down, we meet a steamboat coming up, we give the up-stream boat the bar side and we take the lump side. The usual course in meeting steamboats there is for the up-stream boat to come up on the bar side of the other boat, and the down-stream boat to take the larboard or lump side.

510 In answer to the 6th, 7th, 8th, and 9th interrogatories, read over to the witness, he says: I know nothing about any of those matters.

In answer to the tenth interrogatory the witness says: I am not sufficiently acquainted with the boat to know what her time would be worth. I do not know how long she was delayed.

In answer to the eleventh interrogatory the witness says: I don't

know of anything further, unless it would be that I know the captain and pilots of the Potomac were good steamboatmen. This man Handlan, who, I understand, was on watch at the time, and the captain, are both sober, moral, steady men.

Cross-interrogatories:

In answer to the first cross-interrogatory the witness says: That would be guesswork. I should suppose it was a half or three-quarters of a mile above the wharf-boat.

In answer to the 2d, 3d, 4th, and 5th cross-interrogatories, read over to the witness, he says: Those are matters I know nothing about at all.

In answer to the sixth cross-interrogatory the witness says: The stage was what is known as a low stage of water, but not an extreme low stage.

In answer to the seventh cross-interrogatory the witness says: She would swing off a little from the wharf-boat, and make a gradual
511 crossing to the bar, and then run up the bar side. There is another matter which I have always observed in my practice, and have noticed that good boatmen do, and that is: If I am lying at the wharf-boat and another boat is approaching, to get her position in the river before I start out, so as not to swing across her bows. If the approaching boat is coming down stream, and too near for me to make my crossing with safety, I would not leave the wharf-boat until she had passed down, so that I could make my crossing in safety.

In answer to the eighth cross-interrogatory the witness says: Well, you have to hold off some distance after leaving the wharf-boat so as to avoid the coal-boats. We would have to do that anyhow on account of the mud lumps, but not quite so sudden.

In answer to the ninth cross-interrogatory the witness says: She could run with perfect safety within say about seventy-five (75) to one hundred (100) yards of the dry bar—that is, from the wharf-boat up to the knuckle of the bar, which is very nearly opposite Brown's house.

In answer to the tenth cross-interrogatory the witness says: Yes; I have said so.

In answer to the eleventh cross-interrogatory the witness says: Well, as I have said before, there was a space there of at least 300 yards, in my opinion.

In answer to the twelfth cross-interrogatory the witness
512 says: I hardly understand that. If it means the point on the Louisiana shore, I should think it was three miles above the wharf-boat. If it means the false point on the Mississippi shore at Brown's, or a little above, it is three-quarters of a mile above the wharf-boat. If it means the knuckle of the bar shore, it is between a half and three-quarters of a mile above the wharf-boat. If it means the length of the crossing I make, that would be from 600 to 700 yards from the wharf-boat to the dry bar.

In answer to the thirteenth cross-interrogatory the witness says: If you were on a tall boat, and the night was fair, you could see the lights of the wharf-boat for over a mile. If on a low boat, you would have to come under the bar and come lower down before you could see the lights of the wharf-boat. I don't know how it was on the night of the collision.

In answer to the fourteenth cross-interrogatory the witness says: Oh! I couldn't answer that. It would depend upon where the boats were in the bend, their position in the river, and what kind of a night it was, and all that.

In answer to the fifteenth cross-interrogatory the witness says: That would depend upon where they were. I couldn't answer without knowing where they were.

In answer to the sixteenth cross-interrogatory the witness says: No, sir; coming down you hold on the Mississippi side all the way down.

513 Your jack-staff ought never be held on the Louisiana shore from the time we come into the Mississippi shore at the head of the bend until you get below the wharf-boat.

In answer to the seventeenth cross-interrogatory, the witness says: Yes; we round in to the wharf-boat on side-wheel boats, and we hold out to do so if we are not meeting a boat coming up and there is no other obstruction in the way. We begin to hold out to get into position to round in about half way between Brown's and the wharf-boat, and from there we begin to stand out pretty well—enough to round in.

In answer to the 18th, 19th, and 20th cross-interrogatories, the witness says: I know nothing about any of those matters.

JAS. M. SEEDS.

Subscribed in my presence and sworn to before me, by the above-named deponent, after being by me carefully read over to the said deponent, this 5th day of February, A. D. 1873.

R. S. FULTON,
U. S. Com'r.

O. D. WHITTEN, of sound mind and lawful age, being by me first duly sworn to testify the truth, the whole truth, and nothing but the truth, in answer to the interrogatories-in-chief and cross-interrogatories hereto attached, deposes as follows:

Interrogatories-in-chief:

In answer to the first interrogatory, the witness says: My name is O. D. Whitten; I am 39 years old; my residence is in Mainville,

514 Warren County, Ohio; I am a pilot from Cincinnati to New Orleans, and have been for 18 or 19 years; perhaps a little longer.

In answer to the second interrogatory, the witness says: I believe I do.

In answer to the third interrogatory, the witness says: I swing out from the wharf-boat and run across to the bar and follow the shape of the bar within about a hundred yards of the dry bar; it depends upon the depth of water you are drawing. I don't hold on any particular landmarks in running up around the bar at ordinary stages. I follow the shape of the bar. The bar is on the Louisiana side. The channel is nigher the bend—nigher the Mississippi shore.

In answer to the fourth interrogatory, the witness says: The head of the bar is three or four miles above the Natchez wharf-boat, and the end of the bar is about opposite the wharf-boat. The lower portion of the bar above the wharf-boat is pretty bluff, and the upper part of it, the head, is flat.

In an answer to the fifth interrogatory, the witness says: I generally keep pretty close to the bend side until I get down to about Brown's saw-mill, and then I commence to hold out a little to avoid the mud lumps below. I run about fifty yard' from the bend shore at two miles above Natchez, and that distance from shore until I get down as far as Brown's. I then hold on the point of the hill below Natchez. I could run still closer to the bend side. I could hold on the wharf-boat

515 and avoid the mud lumps, but I generally hold on the point of the hill to give myself room to round in to the wharf-boat.

In answers to the 6th, 7th, 8th, 9th, and 10th interrogatories, read over to the witness, he says: I know nothing about any of those matters.

In answer to the eleventh interrogatory, the witness says: I don't know of an'thing else that I could state, unless that I know Captain Shunk very well, and know him to be a very attentive, sober, steady man, always watching what is going on, and a good steamboatman.

Cross-interrogatories:

In answer to the first cross-interrogatory, the witness says: I have seen it a good many times. It is as much as a mile and a quarter, I should think, above the wharf-boat.

In answer to the 2d, 3d, 4th, and 5th interrogatories, the witness says: I was not there, and know nothing about it.

In answer to the sixth cross-interrogatory, the witness says: I don't remember.

In answer to the seventh cross-interrogatory, the witness says: I don't remember the stage of water. Her proper place would be to the left of the channel on the bar side, at any stage of water.

In answer to the eighth cross-interrogatory, the witness says: Yes; there are coal-boats in there generally, and we have to hold out
516 a little to avoid them. You don't have to hold out much—a very little. I don't know how it was at that time.

In answer to the ninth cross-interrogatory, the witness says: I don't know what the stage of the water was. At a medium stage of water, a boat of the size of the Lee could be safely navigated within seventy or a hundred yards of the bar—the dry bar.

In answer to the tenth cross-interrogatory, the witness says: Yes, sir.

In answer to the eleventh interrogatory, the witness says: I don't know what the stage of water was. At a medium stage there would be a hundred and fifty yards of river in width, within which a boat of the Bob. Lee's size could be safely navigated. Boats could run much closer to each other than that with safety in passing.

In answer to the twelfth cross-interrogatory, the witness says: I don't understand exactly what you mean by that question. I would run toward the bar in a medium stage of water, about two hundred and fifty (250) yards from the wharf-boat, and then take up the shape of the bar, if that is what you want to know. I don't know what is meant by that question.

In answer to the thirteenth cross-interrogatory, the witness says: I should think you could see the lights of the wharf-boat at Natchez, two miles above, ordinarily. I don't know what sort of a night it was when the collision happened.

517 In answer to the fourteenth cross-interrogatory, the witness says: If I was in such a position that I could see the lights of the wharf-boat, and the Lee was between me and the wharf-boat, I could see her lights as well as the wharf-boat. If it was a fair night and a straight reach I think the lights of both boats ought to be visible to each other a mile and a half apart.

In answer to the fifteenth cross-interrogatory, the witness says: It would depend upon what kind of a night it was, and if it was a crooked river you might get very close before you could see the lights. I have answered that question in my last answer.

In answer to the sixteenth cross-interrogatory, the witness says: It would be holding on the Mississippi shore. You would follow the shape

of the bend around. You don't hold on the Louisiana shore at any time after you get into the bend until after you get below Natchez.

In answer to the seventeenth cross-interrogatory, the witness says: Yes; we round in. At a usual stage we don't get out much to round in. In high water I take more room.

In answer to the 18th, 19th, and 20th cross-interrogatories, the witness says: I know nothing about that.

O. D. WHITTEN.

Subscribed in my presence and sworn to before me this 5th day of February, A. D. 1873.

R. S. FULTON,
U. S. Com'r, S. D. O.

518 WM. H. HARRISON, of sound mind and lawful age, being by me first duly sworn to testify the truth, the whole truth, and nothing but the truth, in answer to the interrogatories and cross-interrogatories hereto attached, deposes as follows:

Interrogatories-in-chief:

In answer to the first interrogatory-in-chief, the witness says: William H. Harrison is my name. I will be 43 the 4th of next April. I am a steamboat pilot in the Cincinnati and New Orleans trade by occupation, and have been following that occupation in that trade ever since 1848. I reside at present in Clermont County, Ohio.

In answer to the second interrogatory, the witness says: I do.

In answer to the third interrogatory, the witness says: We go immediately over to the bar from the wharf-boat; we go quartering across to the bar; a fast boat would reach the bar about a quarter of a mile above the wharf-boat. We then run the shape of the bar on the bar side of the channel nearest the Louisiana shore. We always give the Mississippi side to descending boats, and always run nearest the Louisiana side in high and low water. The channel is nearest the Mississippi shore; the foot of the dry bar begins a little below the Natchez wharf-boat, and the bar runs up the Louisiana side between five and six miles above.

519 In answer to the fourth interrogatory, the witness says: I have already stated in my last answer where the bar commences and where it ends. A portion of it is bluff bar.

In answer to the fifth interrogatory the witness says: Well, at two miles above, she would be held right down the river, nearly in the middle of the river, a little nearest the Mississippi shore. She would run on down the river pretty straight, holding on the Mississippi shore below Natchez, about the foot of the bluff. I suppose about a hundred and fifty yards would be a proper distance for her to run from the Mississippi shore.

In answer to the sixth interrogatory the witness says: I met the Potomac the next day after the accident at Dead Man's Bend, about 25 miles below Natchez. I saw she had had an accident. Her jackstaff was knocked down and she was running with a tarpaulin over her head. I saw she was injured, but could not tell the extent of it. She was running slowly, and her pumps were going. I could see the water running off her decks.

In answer to the seventh interrogatory the witness says: All I know about it is from hearsay.

In answer to the eighth interrogatory the witness says: All I know about that is hearsay.

In answer to the ninth interrogatory the witness says: I do not.

In answer to the tenth interrogatory the witness says: I couldn't state that.

In answer to the eleventh interrogatory the witness says: All I can state is this: I know the captain of the Potomac, and know that
520 he is a good officer—one of the best we have got. I know Handlan, her pilot, and have known him from boyhood. I have run on the river with him; he was my partner all one season. He is a good No. 1 pilot, sober and steady and competent.

Cross-interrogatories:

In answer to the first cross-interrogatory the witness says: Yes; I do. It is about a mile and a half above the Natchez wharf-boat.

In answer to the second cross-interrogatory the witness says: Only from hearsay.

In answer to the third cross-interrogatory the witness says: Yes; I passed her the next night after the collision. I passed her in the night. It was a very dark night. I should judge from the time we were running, the distance from the wharf-boat, that she lay probably two miles and a half above the wharf-boat. It was nearest the Louisiana side.

In answer to the fourth cross-interrogatory the witness says: I couldn't answer that question. It was a very dark night. She was above that line.

In answer to the fifth cross-interrogatory the witness says: It would be above that line. I should think two miles and a half.

In answer to the sixth cross-interrogatory the witness says: I think it was about fifteen feet at the "Hole in the Wall," the first shoal above Natchez.

521 In answer to the seventh cross-interrogatory the witness says: The same as any other boat. She would cross over to the bar from the wharf-boat, and run up on the bar side of the channel.

In answer to the eighth cross-interrogatory the witness says: Yes, sir; that is always the case. In leaving the wharf-boat, we swing out a little.

In answer to the ninth cross-interrogatory the witness says: Well, I should think a hundred yards out from the dry bar.

In answer to the tenth cross-interrogatory the witness says: Yes, sir.

In answer to the eleventh cross-interrogatory the witness says: Well, I should think four hundred yards.

In answer to the twelfth cross-interrogatory the witness says: I don't understand that question. I don't know what he means. The false point on the Louisiana side in the usual course of the river is about five miles from the wharf-boat. The main point is about two miles and a half above the wharf-boat.

In answer to the thirteenth cross-interrogatory the witness says: How far could he see them? That depends upon the kind of a night it was. If it was a hazy, misty night, you could not see them more than three miles. If it was a fair, clear night, you could see
522 them away above the point, probably four miles above the wharf-boat. There are a good many lights along there; and of a misty night the smoke from the town and from the tugs and steamboats hangs under the bluff there, and might obscure the lights.

In answer to the fourteenth cross-interrogatory the witness says: That's a difficult question to answer. I wouldn't be looking for an ascending boat on that side of the river. I couldn't say what kind of a

night it was. I was running that night, but don't remember what sort of a night it was. It would depend altogether on circumstances. I couldn't answer it with any reliability.

In answer to the fifteenth cross-interrogatory the witness says: Ordinarily, boats ought to see each other at least a mile apart. That depends on circumstances—the weather, position in the river, and so forth.

In answer to the sixteenth cross-interrogatory the witness says: No, sir. I would be holding about on the bluff on the Mississippi side below Natchez, and the stern of your boat would be pointed on the Mississippi side too. Just before I would begin to round in, I would hold out a little to give myself room.

In answer to the seventeenth cross-interrogatory the witness says: Yes, sir.

In answer to the eighteenth cross-interrogatory the witness
523 says: I saw that the jack-stack of the Potomac was down; but as to the rest, my knowledge is from hearsay.

In answer to the 19th and 20th cross-interrogatories, the witness says: I know nothing about that.

W. H. HARRISON.

Subscribed in my presence by said deponent, after being by me read over to the said deponent and sworn to by him, this 22d day of February, 1873.

R. S. FULTON,
U. S. Com'r, S. D. O.

J. WASHINGTON TENLEY, being by me first solemnly sworn to testify the truth, the whole truth, and nothing but the truth, in answer to the interrogatories-in-chief and cross-interrogatories hereto attached, testifies as follows:

Interrogatories-in-chief:

In answer to the first interrogatory, the witness says: My name is J. Washington Tenley; I am about thirty-five years of age; I reside in Covington, Kentucky; I am a steamboat pilot on the river from Cincinnati to New Orleans, and have followed it in that trade for about twelve years.

In answer to the second interrogatory, the witness says: Yes, sir; I do.

In answer to the third interrogatory, the witness says: I always, in leaving the wharf-boat at Natchez, coming up, go out towards the bar on the Louisiana side, and run up the river little nearest the bar. That
524 is the usual course. I might say, there is better steering up that course than nearer the bend. The bend side is boily. We hold towards the bar until we get pretty close to it, then hold up the river, keeping the shape of the bar. We make a long, straight crossing from the wharf-boat. There is a bar on the Louisiana side; the foot of it—the foot of the dry bar—is above and opposite the wharf-boat. It varies; as the water gets low it is dry further down. It extends up as far as the Louisiana point, about two and a half miles above the wharf-boat.

In answer to the fourth interrogatory, the witness says: I have stated where it begins and where it ends in my last answer. The lower part of it is not very bluff.

In answer to the fifth interrogatory, the witness says: She should run down the bend side nearest the Mississippi shore. We stand well

out, to avoid the mud lumps—say two hundred yards from the Mississippi shore. Up nearer the head of the bend you get closer in. The mud lumps are in the neighborhood of Brown's garden, and from there down.

In answer to the sixth interrogatory, the witness says: No, sir; I do not.

In answer to the seventh interrogatory, the witness says: I do not know in what manner the Potomac was damaged, or her cargo.

In answer to the eighth interrogatory, the witness says: I do not.

In answer to the ninth interrogatory, the witness says: I do not.

525 In answer to the tenth interrogatory, the witness says: I don't know what her time was worth per day, or how long she was detained.

In answer to the eleventh interrogatory, the witness says: That's about all I know. I don't know anything, in fact, about the case.

Cross-interrogatories:

In answer to the first cross-interrogatory, the witness says: I should judge it was about three-quarters of a mile, or a mile, above the wharf-boat.

In answer to the second cross-interrogatory, the witness says: No, sir; I do not.

In answer to the third cross-interrogatory, the witness says: No, sir; I do not know that either. I did not see her.

In answer to the fourth cross-interrogatory, the witness says: I don't know.

In answer to the fifth cross-interrogatory, the witness says: I don't know.

In answer to the sixth cross-interrogatory the witness says: The river was tolerably low, if I remember correctly, at that time. I think there was about eight feet of water in the channel on the shoalest bars between Natchez and Memphis.

526 In answer to the seventh cross-interrogatory, the witness says: Well, I have run on the steamer Katie, of about the same class and size of the Lee, under Captain Cannon, and we always, in leaving the wharf-boat, made a long crossing over toward the bar on the Louisiana side until we get nearest the bar, and then we keep up the bar, shaping the bar, keeping a good distance off.

In answer to the eighth cross-interrogatory, the witness says: They keep the coal fleet in there, and an up-stream or down-stream boat usually has to hold off some. The coal fleet is right above the wharf-boat.

In answer to the ninth cross-interrogatory, the witness says: [illegible] a hundred and fifty yards of where the bar is dry.

In answer to the tenth cross-interrogatory, the witness says: [illegible] sir; I have already stated that.

In answer to the eleventh cross-interrogatory, the witness says: I think it is about half a mile from the dry bar to the Mississippi shore. I think is six hundred or seven hundred yards in width of river there, in which a boat of the class of the Lee could be safely navigated. It is pretty hard to tell distances that way—it is very deceiving.

In answer to the twelfth cross-interrogatory, the witness says:

527 The point above on the Louisiana shore, as I have already stated, is about two miles and a half from the wharf-boat for an up-stream boat. It is further for a down-stream boat, for she runs the shape of the bend.

In answer to the thirteenth cross-interrogatory, the witness says: Well, I don't know what kind of a night it was, and that is pretty important about seeing lights. Of a clear night you can see the lights of the wharf-boat after you have run about half a mile down the bend—say about two miles above the wharf-boat. There is a bluff at Natchez, and smoke sometimes settles in there under the bluff.

In answer to the fourteenth cross-interrogatory, the witness says: That would be governed again by the kind of night it was, and the position of the two boats. I couldn't answer, not being there to see. It would depend altogether on circumstances—the position of the boats, the kind of night, and so on.

In answer to the fifteenth cross-interrogatory, the witness says: Well, that's another one. A person would have to be there to see for himself. I would answer that as I do the last one.

In answer to the sixteenth cross-interrogatory, the witness says: No, sir. The jack-staff is held pointing on the Mississippi side, shaping the bend all the way down until you get about abreast of the mud lumps, and then you begin to hold out in the river until you get into position to land at the wharf-boat.

528 In answer to the seventeenth cross-interrogatory, the witness says: Yes, sir. My last answer answers that.

In answer to the 18th, 19th, and 20th cross-interrogatories, the witness says: I know nothing about that at all.

J. WASH. TENLEY.

Subscribed in my presence and sworn to before me this 10th day of March, 1873.

R. S. FULTON,
U. S. Com'r, S. D. O.

GEORGE MCLAUGHLIN, being by me first duly sworn to testify the truth, the whole truth, and nothing but the truth, in answer to the interrogatories and cross-interrogatories hereto attached, deposes as follows:

Interrogatories-in-chief.

Obligations of the ac

In answer to the first interrogatory-in-chief, the witness says: My n is George McLaughlin; age, 42; residence, Cincinnati; occupa- Secretary of the Firemen's Insurance Company of Cincinnati.

In answer to the 2d, 3d, 4th, 5th, 6th, 7th, 8th, 9th, and 10th and 11th ogatories, the witness says: I know nothing about those matters at this, our company, the Firemen's Insurance Company, had a on the steamer R. E. Lee, a true copy of which I attach to my sition, as Exhibit "D," and paid a loss in general and special average, sustained by the R. E. Lee in a collision with the steamboat Potomac, in December, 1870, amounting $445.80. The policies issued by the Cincinnati underwriters were what is known as the "Cincinnati form," and were uniform. Copies attached to R. S. Semple's deposition as Exhibits A, B, C, D, E, F, G, H, I, K, and L, I believe to be true copies of those policies. Our company does not use a seal, and none of the Cincinnati underwriters having policies on the Lee at the time are in the habit of using seals. Our company has since assigned any claim that we might have had against the Potomac on account of the damage to the Lee in the collision to the owners of the steamboat Potomac, as appears by Exhibit "C" to John A. Townley's deposition. That paper is binding on our company. I am familiar with the signatures to that paper; they were the officers of the respective companies at that time, and are all genuine, as I believe.

out, to avoid the mud lumps—say two hundred yards from the Mississippi shore. Up nearer the head of the bend you get closer in. The mud lumps are in the neighborhood of Brown's garden, and from there down.

In answer to the sixth interrogatory, the witness says: No, sir; I do not.

In answer to the seventh interrogatory, the witness says: I do not know in what manner the Potomac was damaged, or her cargo.

In answer to the eighth interrogatory, the witness says: I do not.

In answer to the ninth interrogatory, the witness says: I do not.

525 In answer to the tenth interrogatory, the witness says: I don't know what her time was worth per day, or how long she was detained.

In answer to the eleventh interrogatory, the witness says: That's about all I know. I don't know anything, in fact, about the case.

Cross-interrogatories:

In answer to the first cross-interrogatory, the witness says: I should judge it was about three-quarters of a mile, or a mile, above the wharf-boat.

In answer to the second cross-interrogatory, the witness says: No, sir; I do not.

In answer to the third cross-interrogatory, the witness says: No, sir; I do not know that either. I did not see her.

In answer to the fourth cross-interrogatory, the witness says: I don't know.

In answer to the fifth cross-interrogatory, the witness says: I don't know.

In answer to the sixth cross-interrogatory the witness says: The river was tolerably low, if I remember correctly, at that time. I think there was about eight feet of water in the channel on the shoalest bars between Natchez and Memphis.

526 In answer to the seventh cross-interrogatory, the witness says: Well, I have run on the steamer Katie, of about the same class and size of the Lee, under Captain Cannon, and we always, in leaving the wharf-boat, made a long crossing over toward the bar on the Louisiana side until we get nearest the bar, and then we keep up the river, shaping the bar, keeping a good distance off.

In answer to the eighth cross-interrogatory, the witness says: Yes; they keep the coal fleet in there, and an up-stream or down-stream boat usually has to hold off some. The coal fleet is right above the wharf-boat.

In answer to the ninth cross-interrogatory, the witness says: Within a hundred and fifty yards of where the bar is dry.

In answer to the tenth cross-interrogatory, the witness says: Yes, sir; I have already stated that.

In answer to the eleventh cross-interrogatory, the witness says: I think it is about half a mile from the dry bar to the Mississippi shore. I think is six hundred or seven hundred yards in width of river there, in which a boat of the class of the Lee could be safely navigated. It is pretty hard to tell distances that way—it is very deceiving.

In answer to the twelfth cross-interrogatory, the witness says:

527 The point above on the Louisiana shore, as I have already stated, is about two miles and a half from the wharf-boat for an up-stream boat. It is further for a down-stream boat, for she runs the shape of the bend.

In answer to the thirteenth cross-interrogatory, the witness says: Well, I don't know what kind of a night it was, and that is pretty important about seeing lights. Of a clear night you can see the lights of the wharf-boat after you have run about half a mile down the bend—say about two miles above the wharf-boat. There is a bluff at Natchez, and smoke sometimes settles in there under the bluff.

In answer to the fourteenth cross-interrogatory, the witness says: That would be governed again by the kind of night it was, and the position of the two boats. I couldn't answer, not being there to see. It would depend altogether on circumstances—the position of the boats, the kind of night, and so on.

In answer to the fifteenth cross-interrogatory, the witness says: Well, that's another one. A person would have to be there to see for himself. I would answer that as I do the last one.

In answer to the sixteenth cross-interrogatory, the witness says: No, sir. The jack-staff is held pointing on the Mississippi side, shaping the bend all the way down until you get about abreast of the mud lumps, and then you begin to hold out in the river until you get into position to land at the wharf-boat.

528 In answer to the seventeenth cross-interrogatory, the witness says: Yes, sir. My last answer answers that.

In answer to the 18th, 19th, and 20th cross-interrogatories, the witness says: I know nothing about that at all.

J. WASH. TENLEY.

Subscribed in my presence and sworn to before me this 10th day of March, 1873.

R. S. FULTON,
U. S. Com'r, S. D. O.

GEORGE MCLAUGHLIN, being by me first duly sworn to testify the truth, the whole truth, and nothing but the truth, in answer to the interrogatories and cross-interrogatories hereto attached, deposes as follows:

Interrogatories-in-chief.

In answer to the first interrogatory-in-chief, the witness says: My name is George McLaughlin; age, 42; residence, Cincinnati; occupation, secretary of the Firemen's Insurance Company of Cincinnati.

In answer to the 2d, 3d, 4th, 5th, 6th, 7th, 8th, 9th, and 10th and 11th interrogatories, the witness says: I know nothing about those matters except this, our company, the Firemen's Insurance Company, had a policy on the steamer R. E. Lee, a true copy of which I attach to my deposition, as Exhibit "D," and paid a loss in general and special average, sustained by the R. E. Lee in a collision with the steam-

529 boat Potomac, in December, 1870, amounting $445.80. The policies issued by the Cincinnati underwriters were what is known as the "Cincinnati form," and were uniform. Copies attached to R. S. Semple's deposition as Exhibits A, B, C, D, E, F, G, H, I, K, and L, I believe to be true copies of those policies. Our company does not use a seal, and none of the Cincinnati underwriters having policies on the Lee at the time are in the habit of using seals. Our company has since assigned any claim that we might have had against the Potomac on account of the damage to the Lee in the collision to the owners of the steamboat Potomac, as appears by Exhibit "C" to John A. Townley's deposition. That paper is binding on our company. I am familiar with the signatures to that paper; they were the officers of the respective companies at that time, and are all genuine, as I believe.

Cross-examination.

In answer to the 1st, 2d, 3d, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, 12th, 13th, 14th, 15th, 16th, 17th, 18th, 19th, and 20th cross-interrogatories, he says: I am not a pilot; I was not present, and I know nothing about the matters inquired of in any of those questions.

GEO. McLAUGHLIN.

Subscribed in my presence and sworn to before me this 7th day of April, 1873.

R. S. FULTON,
U. S. Com'r, S. D. O.

530 [Here appears "Exhibit D," made a part of deposition of Geo. McLaughlin.]

530*a* FIREMEN'S INSURANCE CO., OF CINCINNATI, OHIO.

No. 1373.] [Prop. 88634.

This policy of insurance witnesseth, that the Firemen's Insurance Company, of Cincinnati, by these presents, do cause J. W. Cannon, for present owners, to be insured in the sum of not exceeding twenty-five hundred dollars, lost or not lost, upon the steamer R. E. Lee, wherever she is in safety at noon of the 31st day of October, 1869, and from thence to noon of the 31st day of October, 1870, when this policy shall expire, unless sooner terminated or made void by conditions hereinafter expressed.

With permission to navigate the Ohio and Mississippi Rivers. Dec. 9, '69. Loss, if any, payable to Oakes Ames. Loss, if any, payable to J. W. Cannon, for account of present owners.

Underwriter's obligations.

This company having been paid the consideration for this insurance, at the rate of 10 per cent., for the term of this policy, the said st'r R. E. Lee, hereby insured, being valued at ninety thousand dollars.

Touching the perils which the said insurance company is content to bear and take upon it under this policy, they are of the seas, lakes, rivers, canals, fires, and jettisons that shall come to the damage of said vessel, or any part thereof. And, in case of loss, such loss to be paid in sixty days after proof thereof, proof of interest and adjustment exhibited to the assurers, all sums owing by the assured to the company being first deducted, or secured to the satisfaction of the assurers, before such loss shall be paid. But no loss by special average shall in any case be paid, unless the necessary repairs required solely by the disaster (exclusive of the cost of taking the vessel on the docks or hauling her out on marine ways, the cost of dock or railway fees while being repaired, and the cost of ascertaining and proving the loss) shall amount to five per cent. on the value of said vessel, as specified in this policy.

This policy shall become void if any further insurance has been or shall be made on said vessel which, together with this insurance, shall exceed the sum of sixty thousand dollars, or upon any assignment of this policy, or charter of said vessel, unless notice is given to this company, and the same be approved and indorsed hereon in writing by the company; also during any time said vessel shall carry hemp on deck, unless the same be covered by bagging, or unslacked lime in the hold, or cotton on the hurricane

deck; and also in case the note or other obligation given for the premium herefor be not paid within fifteen days after maturity and demand and remain void during the time the same shall be overdue and unpaid. It is also agreed that the insurance, by this policy, shall cease during the time said vessel shall be taken and held in possession or custody, under any proceedings in law or equity, except during the first five days after seizure. No assignment or transfer hereof shall, in any case, relieve the insured or property hereby insured from any or all of the conditions expressed in this policy; and a violation or non-compliance with any of such conditions, either by the assignee or assignor, before or after the assignment, shall vitiate this policy.

Obligations of the assured.

Warranted by the assured, that this company shall be free from all claim for loss or damage arising from or caused by theft, barratry, robbery, civil commotion, war, or piracy, or during any time said vessel shall be seized and taken possession of or detained by any act of the United States Government, or other legally excluded causes; from damage that may be done by the vessel hereby insured to any other vessel or property; from any loss or damage occasioned by said vessel being improperly laden, by the bursting of boilers, the collapsing of flues, explosion of gunpowder, the derangement or breaking of the engine or machinery, or any consequence resulting therefrom, unless the same be caused by unavoidable external violence; from any loss or damage occasioned by ice between Bissell's Point and the bridge, in the port of St. Louis, Mo.; from loss or damage occasioned by the use on board of coal oil or spirit gas in any form; from any consequences of said vessel having been engaged in an illicit or prohibited trade at any time whatever, and from any loss caused by the use of an open light of any kind in the hold; and there shall be no abandonment as for a total loss, on account of said vessel grounding or being otherwise detained, or in consequence of any loss or damage, unless the injury sustained be equivalent to fifty per centum of the agreed value in this policy; that the aforesaid vessel is and shall be at all times during the continuance of this policy tight and sound, sufficiently found in tackle, and appurtenances thereto, competently provided with master, officers, and crew, and in all other things and means necessary for the safe employment thereof; and that said vessel shall be run and navigated upon the aforesaid privileged waters as is usual for boats of her class in the usual prosecution of business; and that this policy shall be null and void while said vessel shall be unseaworthy, or condemned as unseaworthy, except while proceeding to a port for repairs, and during the time of such repairs; that in the night-time said vessel shall show in a conspicuous place one or more lights, so as to warn and give notice to boats and approaching vessels; and that, while in port or laid up, at least two competent watchmen shall be employed, one of whom shall be on duty at all times; that in all cases of loss or damage the assured shall furnish to said company proofs of the same within thirty days from the date thereof; and all claims under this policy shall be barred, unless prosecuted within one year from the same date; and no loss shall be paid unless the assured shall give immediate notice in case of accident or loss to the company; and that the liability of this company for all losses during the continuance of this policy shall not in the aggregate exceed the sum hereby insured.

In case of any loss or misfortune resulting from any peril insured against, the party insured shall use every effort for the safeguard and recovery of said vessel, and if recovered to cause the same to be forthwith repaired; and in case of neglect or refusal on the part of the assured, his agents or assigns, to adopt prompt and efficient measures for the safeguard and recovery of said vessel, then the said insurers are hereby authorized to interpose and recover said vessel, and cause the same to be repaired for account of the insured, to the charges of which the said insurance company will contribute, in proportion as the sum herein insured bears to the agreed value in this policy; but in no case whatever shall the assured have the right to abandon, until it shall be ascertained that the recovery and repairs of said vessel are impracticable, nor sell the wreck or any portion thereof without the consent of this company; and the acts of the assured or assurers, or of their joint or respective agents, in preserving, securing, or saving the property insured, in case of danger or disaster, shall not be considered or held to be a waiver or acceptance of an abandonment. In case of accident rendering repairs necessary, the master or owner shall cause the said vessel to be surveyed by a competent inspector, who shall, under oath, note particularly the damage sustained, and the repairs required thereby; all claims for repairs shall be accompanied by the vouchers, and by the oath or affirmation of the master that such expenses were actually incurred and made necessary by the accident which may have happened to said vessel.

Adjustment of losses.

No deduction will be made from claims for repairs to the hull or machinery of said vessel during the first two years from the date of her original custom-house survey; but from all claims for repairs to the cabin, or tackle, or apparel, or furniture, or for replacing the same, the assured shall deduct one-third, that being the agreed difference in value between new and old materials—and the same deduction shall be made from claims for repairs to the hull and machinery, after the first two years, as aforesaid.

No allowance will be made for wages or provisions paid or furnished to officers or crew while the vessel is detained by any accident, or while undergoing any repairs, except for the time they are actually employed for the safety of the vessel and cargo, for which they will be included in the general average account. Whenever this company shall pay any loss, the assured agrees to assign over to said company all right to recover satisfaction therefor from any other person or persons, town or other corporation, or the United States Government, or to prosecute therefor at the charge and for account of the company, if requested. And the said company shall be entitled to such proportion of said damages recovered as the amount insured by them bears to the valuation of said vessel.

In case of return premium, at the request of the assured, a deduction shall only be made on the whole months of unexpired time; the earned time to be charged for at short rates.

In witness whereof the Firemen's Insurance Company, of Cincinnati, have caused these presents to be signed by their president, and attested

by their secretary, at their office, in the city of Cincinnati, State of Ohio, this 31st day of October, 1869.

(Signed) H. E. SPENCER,
President.

(Signed) GEO. MCLAUGHLIN,
Secretary.

D. George McLaughlin's deposition.

R. S. FULTON,
U. S. Com'r.

For value received, hereby transfer, assign, and set over unto , and , assigns, all right, title, and interest in this policy of insurance, and all benefit and advantage to be derived therefrom, subject to the deduction therefrom of all claims due this company, at this date, by the assignor, and thereafter by the acceptor.

Witness hand and seal this day of .

[SEAL.]

Sealed and delivered in presence of—
Approved.

Secretary.

For value received, hereby transfer, and set over unto , and assigns, all right, title, and interest in this policy of insurance, and all benefit and advantage to be derived therefrom, subject to the deduction therefrom of all claims due this company, at this date, by the assignor, and thereafter by the acceptor.

Witness hand and seal this day of .

[SEAL.]

Sealed and delivered in presence of—
Approved.

Secretary.

(Indorsed:) Copy. Vessel, R. E. Lee. No. 1373. Firemen's Insurance Company, of Cincinnati, O. To J. W. Cannon. Valuation, $90,000. Limit, $60,000. $2,500 @ 10%, $250. Expires Oct. 31st, 1870. Henry E. Spencer, pres't. Geo. McLaughlin, sec'y.

531 UNITED STATES OF AMERICA,
Southern District of Ohio, City of Cincinnati, ss:

I, R. S. Fulton, a United States commissioner, within and for the sixth judicial circuit and southern district of Ohio, duly appointed, qualified, and commissioned as certified in the caption to the preceding depositions, do hereby further certify that the preceding depositions of Isaac D. Gough, John A. Townley, R. S. Semple, F. A. Autenheimer, James S. Seeds, O. D. Whitten, William H. Harrison, J. Washington Tenley, and George McLaughlin were reduced to writing by myself in the presence of the said witnesses respectively, were by me carefully read over to the said witnesses respectively, and thereafter respectively subscribed by the said witnesses in my presence; that the said depositions were respectively taken on the 5th and 6th days of December, A. D. 1872, on the 10th, 4th, 5th and 22d days of February, and 10th day of March, A. D. 1873; that I am not of counsel, attorney, or relative to either party in the suit, nor interested in the result thereof; and I further certify that the said depositions were taken in all respects as stated in the caption attached, preceding the same, and to be read in evidence on

behalf of the respondents and claimants in the said action set out in the caption.

Witness my hand and official seal at Cincinnati on this 8th day of April, A. D. 1873.

[SEAL.] R. S. FULTON,
U. S. Com'r, S. D. O.

52 District court of the United States of America for the district of Louisiana, holding sessions in the city of New Orleans.

To E. Howard Farrar or Robt. Murdock, special U. S. commissioner ad hoc, residing at St. Joseph, La.:

Know ye that, reposing special trust and confidence in your integrity and ability, we hereby authorize and require you that you call and cause to come before you Abraham N. Gould, Reeve Lewis, Janson T. Watson, Augustus C. Watson, Elli Tullis, and others, witnesses for the steamer Potomac, and them duly examine on the annexed interrogatories and cross-interrogatories on oath, touching and concerning certain matters and things in a case now pending in the said court, wherein John W. Cannon is libellant, and the steamer Potomac and owners are defendants; and the same examinations, so taken and reduced to writing, you certify under your hand and seal, and send enclosed to this court without delay, to be read in evidence on the trial of said cause, and send also this writ.

Witness the honorable Edward H. Durell, judge of the district court of the United States of America, for the district of Louisiana, at the city of New Orleans, this 14th day of January, A. D. 1873.

[SEAL.] J. A. CHARBONNET,
Deputy Clerk.

United States district court, district of Louisiana. In admiralty.

JOHN W. CANNON
vs.
STEAMBOAT POTOMAC ET AL. } No. 9760.

Interrogatories to be propounded to Abraham N. Gould, Reeve Lewis, Janson T. Watson, Augustus C. Watson, Eli Tullis, and others,
533 witnesses for the claimants of the steamer Potomac, the respondents in this case, whose answers are to be used as evidence for the said respondents on the trial of this cause.

Interrogatory first. What is your name, age, residence, and occupation, and are you acquainted with the parties to this suit, or either of them?

Interrogatory second. This is a suit brought by John W. Cannon, as owner of the steamboat R. E. Lee, against the Potomac, to recover damages from the Potomac for the sinking of the Lee, when the Lee and the Potomac collided about 21st December, 1870, about a mile above Natchez. Do you know anything whatever about this collision?

Interrogatory third. If you say you know anything about this collision, then state whether you were on either the Lee or the Potomac, and which you were on, at the time the collision occurred.

Interrogatory fourth. If you say you were on the R. E. Lee, then state where you got on her, when you got on her, how long you had

been on her at the time the collision occurred, and in what capacity you got on her, whether as a passenger or as one of the crew of the boat.

Interrogatory fifth. State whether or not you are well ac-
534 quainted with the libellant, John W. Cannon; also state whether you have ever travelled on the Lee before, and whether you are familiar with her whistles and mode of handling.

Interrogatory sixth. State whether or not you have ever had any experience in either river or ocean navigation, and whether you had had sufficient experience on water to enable you to give an assured opinion of distances and positions on water at night.

Interrogatory seventh. Do you know Mr. Charles J. Pierce, the pilot of the Lee at the time this collision is said to have taken place? If you say you do know him, state how long you have known him, and whether you have known him well during that time.

Interrogatory eighth. Were you with Pierce, the pilot of the Lee aforesaid, at any time during that night prior to or just after the collision? If you say you were with him during the night before the collision, state where you were together, and what you were doing, and whether you were with him while the Lee was at Natchez on that night.

Interrogatory ninth. State whether you know of said Pierce's having taken anything to drink that night before the collision took place; if you say you know he had been drinking that night, state how many times he had taken a drink within your knowledge that night before the collision took place; and, if you cannot say the number of
535 drinks that he took, then state whether he drank more than once or not, and whether or not he drank often, and if you can, state what he drank; and if you say he had been drinking that night state fully how you know it, and whether you had been drinking with him.

Interrogatory tenth. If you say you had been drinking with him, give as near as you can the number of drinks that you took with him, and state when and where this was.

Interrogatory eleventh. State whether or not in your opinion, judging from the demeanor and actions of Pierce, the pilot aforesaid, he was under the influence of drink when the boat was at Natchez, and just before she left Natchez the night of the collision.

Interrogatory twelfth. Do you know whether any one was in the pilot-house of the Lee with Pierce at the time the collision took place, or just prior to it? If you say you do, state who it was, and, if you know, what the person was doing in the said pilot-house.

Interrogatory thirteenth. State where you were at the time the Lee left the Natchez wharf-boat that night. If you know, state what was the course of the Lee after leaving the wharf-boat that night. Did she keep up along the Natchez shore, or did she hold over to bar shore on the Louisiana shore?

Interrogatory fourteenth. Do you know where Mr. Pierce, the
536 pilot of the Lee, was when the *the* Potomac was first seen from the Lee, and where he was a few minutes before the collision took place? If so, state where he was.

Interrogatory fifteenth. Where were you when the Lee left Natchez? State fully; also, state what you were doing; also, state what was the first indication that you had that there was another steamer approaching; state all that you know in relation to this collision, and state it fully and circumstantially.

Interrogatory sixteenth. Describe the positions of the two boats when you first saw them, and state whether either of them changed her course from that time till the collision took place; if so, how they changed;

also, state the direction the Lee was heading at the time the blow was struck, and how far she was from the Natchez shore, and where the collision took place, and how the boats came together—in what shape. Did the Lee have any headway—did the Potomac have any headway at the time? Which way did the Lee go immediately after the collision? Did she move in closer to the Natchez shore or not? Describe the position of the boats, relative to the Natchez shore, immediately after the collision.

Interrogatory seventeenth. Do you know where Capt. Cannon, the master of the Lee, was at the time the collision took place, or just before it? If you do, describe where he was, and state how you know he was there. Had Capt. Cannon been on watch, on the roof, after leaving Natchez, before the collision? If you know, state fully all the movements made by Capt. Cannon just previous to and at the time of the collision.

537 Interrogatory eighteenth. Did you hear any whistles from either boat just before the collision? If you did, state what they were, when you heard them, and all about it. If the Lee had blown her whistle, would you have heard it? Is her whistle loud or feeble?

Interrogatory nineteenth. If the Lee had blown a whistle, could it not have been heard in her cabin hall? At what period did Capt. Cannon leave the hall of the boat? Was it before the collision or after? If before, how long before? How was the Lee headed just before the boats struck?

Interrogatory twentieth. What was done with the Lee when she was struck? Who advised her to be run on the bar? Where was she landed—was it above or below Brown's saw-mill? How far from the saw-mill was the collision? How far is the saw-mill above Natchez?

Interrogatory twenty-first. Had the Lee a coal-flat in tow when she left Natchez?

Interrogatory twenty-second. From what you saw of this collision, whose fault was it—the Lee's or the Potomac's? If you say it was the Lee's fault, give your reasons, and state any other facts within your knowledge which would be of advantage to the respondents.

GIVEN CAMPBELL, *Proctor.*

538 United States district court, district and State of Louisiana. In admiralty.

JOHN W. CANNON
vs.
STEAMBOAT POTOMAC. } No. 9760.

John W. Cannon, libellant in the above-entitled cause, now comes, and reserving the benefit of all just and legal exceptions whatsoever to the interrogatories propounded to Abraham N. Gould and others, specially objecting to the examination of any witness not specially named in the said interrogatories, and specially objecting to interrogatory twenty-two, on the ground that it seeks to elicit the opinion of the witnesses as to the fault of the collision, nevertheless, propounds the following cross-interrogatories:

1st. At what hour did the Lee leave the wharf-boat at Natchez, just before the collision occurred?

2d. When the Lee left the wharf-boat, where were you, and what were you doing?

3d. How long did you remain in the place in which you were when

the boat left? State fully and in detail where you were and what you did from the time the Lee left the wharf-boat at Natchez until the collision occurred.

4th. What sort of weather was it that night? How long did the Lee remain at Natchez?

5th. Where were you at the moment the collision occurred? Was there any particular cause or circumstanne which induced you to be at the place at which you were when the collision occurred? If so,
539 state what cause or circumstance, and how long you had been at that place when the collision occurred?

6th. Did you take as many drinks that night as you saw Charles Pierce take?

7th. Were you in the pilot-house of the Lee, or in a position from which you could see the persons who were in the pilot-house, after the boat left Natchez? If so, state precisely where you were, who was with you, what you were doing, and how it happened that you were in the pilot-house, or in a position from which you could see the persons who were in the pilot-house.

8th. Was it the captain's watch or the mate's watch when the boat left Natchez?

9th. How long had the boat been out from the wharf-boat at Natchez before the collision occurred?

10th. How far were the boats from the wharf-boat at Natchez when the collision occurred? How far were they from Brown's saw-mill? Were they above or below Brown's saw-mill?

11th. After the boat left the wharf-boat at Natchez, did you go out on the guards? If so, how long after she left the wharf-boat? On which side of the boat did you go out? Why did you go out?

12th. Were you on the roof or hurricane deck of the Lee at any time after the Lee left the wharf-boat at Natchez? If so, how long after? Why did you go there.

13th. If you say you went out, either upon the guards or the upper deck of the Lee, state how long you remained out, and whether or not you saw the Potomac at that time. If you saw the Potomac
540 then, how long was this before the collision, and what was then the relative position of the two boats?

14th. At the moment of collision was the Potomac between the Lee and the Mississippi shore, or between the Lee and the Louisiana shore?

15th. What part of the Potomac came into collision with the Lee? What part of the Lee was in contact with the Potomac? Was the Lee struck on the larboard side or on the starboard side? Was she struck at her stem, or aft of her stem? How far from her stem was she struck?

16th. Did the jack-staff of either boat fall in the collision? Was it the jack-staff of the Potomac or of the Lee, or of both, that fell?

17th. Did you hear the engine-bells of the Lee rung to stop? Did you hear them rung to back? If so, how long before the collision did you hear the bells to stop? How long before the collision did you hear them rung to back? Where were you when you heard the stopping bells? Where were you when you heard the backing bells? What were you doing when you heard the stopping bills? What were you doing when you heard the backing bells?

18th. After the collision, how did the Lee get to the place at which she sunk? Did she stop backing and go ahead? State all you know as to how the Lee got from the place of the collision to the place at which she sunk?

19th. How far was the place at which she sunk above or below Brown's saw-mlll? Was it near the Mississippi shore or near the Louisiana shore?

20th. How long was it after the collision before the Lee sunk?
541 Did she sink above or below the place at which the collision occurred? How far was it from the place of collision, above or below?

21st. Did you take any drinks the night of the collision when Charles Pierce was not present? How many drinks did you take that night when Pierce did not drink with you—that is, before the collision?

22d. Where were you, and what were you doing, when you first saw the Potomac? By what means can you fix the time when the Potomac was first seen from the Lee?

23d. What sort of night was it when the collision occurred? Was it very light, or very dark? Was the moon shining, or was it cloudy or starlight?

24th. Do you know anything about the engines of the Potomac, that is, whether they were going ahead, or backing, or not in motion at the time of the collision? If you have any knowledge on this subject, how did you get your information? Were both engines of the Potomac going ahead? Were both engines stopped? Were both engines backing? State all you know and your means of knowing what the engines of the Potomac were doing; and how long before the collision occurred you ascertained what her engines were doing.

25th. Have you ever been engaged in the navigation of steamboats on the Mississippi River? If so, in what capacity? When and how long were you so engaged?

26th. If in answer to the 22d interrogatory you undertake to state any facts which, in your opinion, would be of advantage to the
542 respondents, state also any and all facts within your knowledge which would benefit libellant—and do not undertake to state any thing of which you have not personal knowledge.

R. H. MARR,
Proctor for Libellant.

NEW ORLEANS, 11*th Jan.*, 1873.

STATE OF LOUISIANA,
Parish of Tensas:

Be it known that by virtue and in pursuance of the annexed commission to me directed as commissioner ad hoc from the honorable the United States district court for the district of Louisiana, sitting as a court of admiralty, to take the depositions of A. N. Gould, Reeve Lewis, J. T. Watson, A. C. Watson, Eli Tullis and others, to be read in evidence in a certain suit now pending in said honorable court, wherein John W. Cannon is libellant and the steamer Potomac and her owners are respondents:

I, Edgar Howard Farrar, commissioner ad hoc, did cause to come before me at my office in the town of St. Joseph, parish of Tensas, State of Louisiana, on the several days and dates herein mentioned at the foot of each deposition, the aforesaid witnesses, with the exception of Augustus C. Watson, who was absent from the parish, all personally known to me, commissioner, to be competent witnesses of lawful age, and being by me first duly sworn according to law, upon the
543 Holy Bible, to testify the truth, the whole truth and nothing but the truth concerning their answer to the annexed interrogatories and cross-interrogatories, they then did then and there, on their oath, depose, say, and answer as follows, to wit:

ABRAHAM N. GOULD, sworn, states:

To first interrogatory: My name is Abraham N. Gould. I am 43 years old. My residence is in Tensas Parish, Louisiana. My occupation that of a planter. I am personally acquainted with John W. Cannon. I do not know the other parties.

To second interrogatory: I do know something about the collision between the Lee and the Potomac, as I was a passenger on the Lee at the time it occurred.

To third interrogatory: I was on the Lee, as stated above.

To fourth interrogatory: I got on the Lee at New Orleans on Tuesday evening, and the collision occurred Wednesday night. As said above, I was on her as a passenger.

To fifth interrogatory: I am well acquainted with John W. Cannon. I had often travelled on the Lee previous to the collision. I transact part of my shipping business with the Lee, and having lived within hearing of her whistle for more than three years I am acquainted with its sound. I know nothing about her mode of handling, as I never steered her.

To sixth interrogatory: I was a seafaring man for seventeen
544 years; and during the late war I commanded the United States gunboat Forest Grove on the Mississippi River for twelve months. I would consider myself capable, from my long experience, of judging distances and directions day or night.

To seventh interrogatory: I knew Mr. Chas. Pierce at the time of the collision. I cannot say I knew him well, but I had a slight acquaintance with him. I have known him by sight for about seven years as a steamboat pilot.

To eighth interrogatory: I was in the social hall that night when the Lee landed at Natchez. I saw Mr. Pierce there, but was not to my recollection in his immediate company.

To ninth interrogatory: I saw Pierce standing at the bar of the boat with others. He seemed to have met a great many friends at Natchez. I did not drink with him myself, as far as I recollect.

To tenth interrogatory: As I did not drink with Pierce myself, I have no answer to make to this interrogatory.

To eleventh interrogatory: When I saw Pierce, it was during the time which elapsed shortly after the arrival of the boat at Natchez. He was not under the influence of liquor then; but I cannot say that I saw him for some time before the boat left Natchez, as she was there a good while.

545 To twelfth interrogatory: I know nothing about who was in the pilot-house of the Lee, or whether there was anybody there at the time of the collision.

To thirteenth interrogatory: I was sitting by the stove in the social hall when the Lee left the Natchez wharf. Being inside the cabin I know nothing of the course she took.

To fourteenth interrogatory: I know nothing about the motions of Mr. Pierce before the collision took place.

To fifteenth interrogatory: As stated above, I was in the social hall of the Lee, by the stove, when she left Natchez, conversing with some gentlemen and trying to keep warm. The first indication that I had of the presence of another steamer was the crash of the collision.

To sixteenth interrogatory: On hearing the crash I ran out past the bar through the port cabin-door on to the port side of the boat, on the boiler deck, when I saw a steamer with her bow into our port bow, and swinging around alongside on to our port side. As she swung around

19th. How far was the place at which she sunk above or below Brown's saw-mill? Was it near the Mississippi shore or near the Louisiana shore?

20th. How long was it after the collision before the Lee sunk?
541 Did she sink above or below the place at which the collision occurred? How far was it from the place of collision, above or below?

21st. Did you take any drinks the night of the collision when Charles Pierce was not present? How many drinks did you take that night when Pierce did not drink with you—that is, before the collision?

22d. Where were you, and what were you doing, when you first saw the Potomac? By what means can you fix the time when the Potomac was first seen from the Lee?

23d. What sort of night was it when the collision occurred? Was it very light, or very dark? Was the moon shining, or was it cloudy or starlight?

24th. Do you know anything about the engines of the Potomac, that is, whether they were going ahead, or backing, or not in motion at the time of the collision? If you have any knowledge on this subject, how did you get your information? Were both engines of the Potomac going ahead? Were both engines stopped? Were both engines backing? State all you know and your means of knowing what the engines of the Potomac were doing; and how long before the collision occurred you ascertained what her engines were doing.

25th. Have you ever been engaged in the navigation of steamboats on the Mississippi River? If so, in what capacity? When and how long were you so engaged?

26th. If in answer to the 22d interrogatory you undertake to state any facts which, in your opinion, would be of advantage to the
542 respondents, state also any and all facts within your knowledge which would benefit libellant—and do not undertake to state any thing of which you have not personal knowledge.

R. H. MARR,
Proctor for Libellant.

NEW ORLEANS, 11*th Jan.*, 1873.

STATE OF LOUISIANA,
Parish of Tensas:

Be it known that by virtue and in pursuance of the annexed commission to me directed as commissioner ad hoc from the honorable the United States district court for the district of Louisiana, sitting as a court of admiralty, to take the depositions of A. N. Gould, Reeve Lewis, J. T. Watson, A. C. Watson, Eli Tullis and others, to be read in evidence in a certain suit now pending in said honorable court, wherein John W. Cannon is libellant and the steamer Potomac and her owners are respondents:

I, Edgar Howard Farrar, commissioner ad hoc, did cause to come before me at my office in the town of St. Joseph, parish of Tensas, State of Louisiana, on the several days and dates herein mentioned at the foot of each deposition, the aforesaid witnesses, with the exception of Augustus C. Watson, who was absent from the parish, all personally known to me, commissioner, to be competent witnesses of lawful age, and being by me first duly sworn according to law, upon the
543 Holy Bible, to testify the truth, the whole truth and nothing but the truth concerning their answer to the annexed interrogatories and cross-interrogatories, they then did then and there, on their oath, depose, say, and answer as follows, to wit:

ABRAHAM N. GOULD, sworn, states:

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To fourth interrogatory: I got on the Lee at New Orleans on Tuesday evening, and the collision occurred Wednesday night. As said above, I was on her as a passenger.

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To sixth interrogatory: I was a seafaring man for seventeen
544 years; and during the late war I commanded the United States gunboat Forest Grove on the Mississippi River for twelve months. I would consider myself capable, from my long experience, of judging distances and directions day or night.

To seventh interrogatory: I knew Mr. Chas. Pierce at the time of the collision. I cannot say I knew him well, but I had a slight acquaintance with him. I have known him by sight for about seven years as a steamboat pilot.

To eighth interrogatory: I was in the social hall that night when the Lee landed at Natchez. I saw Mr. Pierce there, but was not to my recollection in his immediate company.

To ninth interrogatory: I saw Pierce standing at the bar of the boat with others. He seemed to have met a great many friends at Natchez. I did not drink with him myself, as far as I recollect.

To tenth interrogatory: As I did not drink with Pierce myself, I have no answer to make to this interrogatory.

To eleventh interrogatory: When I saw Pierce, it was during the time which elapsed shortly after the arrival of the boat at Natchez. He was not under the influence of liquor then; but I cannot say that I saw him for some time before the boat left Natchez, as she was there a good while.

545 To twelfth interrogatory: I know nothing about who was in the pilot-house of the Lee, or whether there was anybody there at the time of the collision.

To thirteenth interrogatory: I was sitting by the stove in the social hall when the Lee left the Natchez wharf. Being inside the cabin I know nothing of the course she took.

To fourteenth interrogatory: I know nothing about the motions of Mr. Pierce before the collision took place.

To fifteenth interrogatory: As stated above, I was in the social hall of the Lee, by the stove, when she left Natchez, conversing with some gentlemen and trying to keep warm. The first indication that I had of the presence of another steamer was the crash of the collision.

To sixteenth interrogatory: On hearing the crash I ran out past the bar through the port cabin-door on to the port side of the boat, on the boiler deck, when I saw a steamer with her bow into our port bow, and swinging around alongside on to our port side. As she swung around

I saw the word "Potomac" painted in large letters on her paddle-box. She swung around entirely alongside of us on our port side, heading up river, as the Lee was, and then dropped down below us. Somebody on the deck of the Potomac sang out, "We are sinking, captain; stand by us." Somebody from the Lee replied that we were sinking too.

546 I then went down on to the main deck, and saw that everything was carried away forward on the port side. Seeing no one on the main deck or about I called to some one on the hurricane roof, who, I think, was Capt. Cannon, that the boat was filling, and that he had better run her over on the bar. After I spoke this person gave an order to some one in the pilot-house to run her ashore over on the bar, when she was steamed ahead and soon grounded in about eight or nine feet of water. I think the Lee was going the usual course up the river from Natchez, and was from half to two-thirds of the way over towards the Louisiana shore. This is, to the best of my judgment, when I went out, after the collision, and down to the main deck, though I cannot be positive that such was the fact. I cannot say whether or not the Lee changed her course before collision, so as to allow the Potomac to come in on her port bow. The collision took place about a mile and a half above the Natchez wharf-boat. The Lee appeared to me to be under the usual headway going up the river when the crash took place. I cannot say whether the Potomac had headway or not. Immediately after the collision, when the Potomac had swung clear and below us, the Lee, according to my suggestion, steamed over to the bar on the Louisiana shore, grounded and filled with water.

To seventeenth interrogatory: Captain Cannon was sitting in the social by the stove conversing with myself and some other gentlemen about the expense of sending a bale of cotton to the pickery in

547 New Orleans, at the time the crash occurred. I think Capt. Cannon was on the roof when the Lee left Natchez, and remained there until the boat was underway, when he came down into the social hall. On hearing the crash of the collision Capt. Cannon ran out of the social hall by way of the starboard cabin door.

To eighteenth interrogatory: I heard no whistle from either boat. I think that I would have heard the whistle of the Lee if it had sounded. The whistle of the Lee is loud and vibrating.

To nineteenth interrogatory: I think the whistle of the Lee could, under ordinary circumstances, be heard in the cabin. Capt. Cannon left the cabin on hearing the crash of the collision. I have stated above as far as I can judge how the boats were headed.

To twentieth interrogatory: I think the engines of the Lee were stopped about the time of the collision. 'Twas I that called out to the person on the roof to run her over on the bar. She was grounded on the Louisiana shore, nearly opposite Brown's mill. Brown's mill is about a mile and a half above the Natchez wharf-boat.

To twenty-first interrogatory: The Lee had no coal-boat in tow when she left Natchez, in my opinion.

To twenty-second interrogatory: I cannot say who was in fault. I saw the steamer Potomac after the collision at the Natchez

548 wharf, and think from the condition she was in it was lucky for her, and a narrow escape that she did not go down immediately.

Cross-interrogatories:

To first cross-interrogatory: I don't know exactly; somewhere about midnight.

To second cross-interrogatory: I have stated above.

To third cross-interrogatory: I have answered this as fully as possible above.

To fourth cross-interrogatory: It was a cold, cloudy, dark night. The Lee remained at Natchez all of the forepart of the night.

To fifth cross-interrogatory: I have answered this fully above.

To sixth cross-interrogatory: As I did not see Pierce actually drink anything, I did.

To seventh cross-interrogatory: I know nothing about the matters herein enquired of.

To eighth cross-interrogatory: I don't know.

To ninth cross-interrogatory: About ten or fifteen minutes.

To tenth cross-interrogatory: About a mile and a half; nearly opposite the mill.

To eleventh cross-interrogatory: I went out on hearing the crash of collision, on the port side.

549 To twelfth cross-interrogatory: I was not.

To thirteenth cross-interrogatory: I know nothing about the matters herein enquired of.

To fourteenth cross-interrogatory: Between the Lee and the Louisiana shore.

To fifteenth cross-interrogatory: The Potomac was head on into the Lee, just aft of the Lee's stem, on the port side of the Lee. About 5 or 6 feet, as far as I remember.

To sixteenth cross-interrogatory: The jack-staff of the Potomac fell aboad of the Lee, broken; that of the Lee did not fall.

To seventeenth cross-interrogatory: I recollect hearing bells, for what purpose I don't know, almost simultaneous with the collision.

To eighteenth cross-interrogatory: She steamed over to where she sank. I do not recollect that she backed, as there was much confusion.

To nineteenth cross-interrogatory: About opposite the mill on the Louisiana shore.

To twentieth cross-interrogatory: She sunk about opposite the place of collision. I should judge about twenty minutes after the collision.

To twenty-first cross-interrogatory: I do not remember drinking at all that night.

550 To twenty-second cross-interrogatory: I was passing out of the port social hall door on the boiler deck. I can't say when the Potomac was first seen from the Lee.

To twenty-third cross-interrogatory: I have answered this above. It was cloudy.

To twenty-fourth cross-interrogatory: When I first saw the Potomac I think she was backing; this was just after the collision.

To twenty-fifth cross-interrogatory: I have answered this question above.

To twenty-sixth cross-interrogatory: I have no answer to make to this interrogatory.

A. N. GOULD.

Sworn to and subscribed before me this 7th day of February, A. D. 1873.

E. HOWARD FARRAR,
Commissioner ad hoc.

REEVE LEWIS, sworn, states:

To first interrogatory: My name is Reeve Lewis; age, 43; residence, St. Joseph, Tensas Parish, Louisiana; occupation, lawyer. I am acquainted with John W. Cannon; not with the other parties.

To second interrogatory: I do know something about the collision of the Lee and Potomac.

To third interrogatory: I was on the Lee.

551 To fourth interrogatory: I got on the R. E. Lee at New Orleans as a passenger, and was on her from Tuesday evening, at which time she left New Orleans, until sometime in the day of Thursday after the collision.

To fifth interrogatory: I am well acquainted with Captain Cannon, the libellant; have often travelled on the Lee, and having a tolerable ear for music, am familiar with the sound of her whistle. Jack Izzard, the pilot, has often told me that the Lee is the easiest steering vessel he ever piloted.

To sixth interrogatory: Besides frequent travelling on the Mississippi River I was for a time the second clerk on the steamer Natchez; I think that I am about as good a judge of directions and distances on water at night as anybody of my experience would be.

To seventh interrogatory: I did know Charles J. Pierce, the pilot of the Lee, at the time of the collision, and have known him well for at least ten years.

To eighth interrogatory: I was with Charley Pierce while the Lee was lying at Natchez before the collision occurred, and took a drink with him at the bar of the boat while she was there. After taking the drink with him, I sat down in the social hall, and Pierce was talking and drinking with a considerable crowd of friends that he seemed to have met at Natchez.

552 To ninth interrogatory: I have already stated that I drank once with Pierce myself, and that I saw him drink quite often with others after drinking with me; I cannot say what he drank, as it is hard to remember what a man has drunk himself so far back.

To tenth interrogatory: I have answered this substantially above.

To eleventh interrogatory: Pierce certainly drank liquor enough to be under its influence, but he being a man who can stand a good deal, he might not have shown it in his demeanor.

To twelfth interrogatory: I know nothing about the matters enquired of in this interrogatory.

To thirteenth interrogatory: I was sitting by the stove in the social hall of the Lee from the time she left Natchez up to the moment of the collision; I know nothing about the course she took after leaving Natchez.

To fourteenth interrogatory: I know nothing of the matters enquired of in this interrogatory.

To fifteenth interrogatory: I was sitting by the stove in the social hall talking with Messrs. A. C. Watson, Eli Tullis, G. C. Bettis, A. N. Gould, Capt. John W. Cannon, and John Mossop, clerk of the Lee. We were talking about the cost of sending a bale of cotton to the pickery in New Orleans. Captain Cannon told Massop to get a letter out of the

553 office detailing the expense of such an operation. The letter was handed to me, and just as I had begun to read it, I heard the crash and felt the shock of the collision. Just at this moment the barkeeper thrust his head out of the bar and said to Capt. Cannon, "Captain, she is right into us." The first indication I had of the approach of another steamer was the collision itself. As soon as the collision occurred Capt. Cannon ran out of the starboard door and Capt. A. N. Gould out of the port door of the cabin. Messrs. Watson, Tullis, and myself went back towards the ladies' cabin.

To sixteenth interrogatory: Shortly after I went back towards the ladies' cabin, I went out through the gangway between the gentlemen and ladies' cabin, on to the port side of the boat, and saw the Potomac swing loose from the Lee and float stern foremost down the river. At that time the Lee was heading up the river, and at least half way from the Natchez shore. I can't say whether the Lee had any headway at the time of the collision, but she had none when I went out on the guards, because I thought they would never get her started over towards the bar, and that she would sink right there. I don't think the Potomac had any headway, as she seemed to be floating only with the current, stern foremost, down the river. As soon as the Lee was started she was headed over to the bar on the Louisiana shore. She did not move any closer to the Natchez shore after the collision, as far as I know. Immediately after the collision, the Lee was, as far as I could judge, bow up-stream, with the Potomac on her port side,
554 between her and the Louisiana shore, also bow up-stream, both boats between a mile and a mile and a half above the Natchez wharf.

To seventeenth interrogatory: I have already stated where Capt. Cannon was at the time of the collision. He had been on watch, I think, at the time we left Natchez, but came into the cabin, sat down in front of the stove, and was conversing with us, a party of gentlemen from Tensas Parish.

To eighteenth interrogatory: I heard no whistles from either boat at the time of or before the collision. I think I would have heard the Lee's whistle if it had blown. It is a powerful whistle, and jars the whole cabin.

To nineteenth interrogatory: If the Lee had blown a whistle, it could have been heard in the cabin. I have answered the rest of the interrogatory above.

To twentieth interrogatory: After the Lee was struck she was run over on the bar on the Louisiana shore. I do not know of my own knowledge who advised it. She was grounded about opposite Brown's saw-mill. The saw-mill is between a mile and a mile and a half above the wharf-boat at Natchez.

To twenty-first interrogatory: I can't say whether the Lee had a coal-flat in tow or not when she left Natchez, but I saw none at the time of the collision.

555 To twenty-second interrogatory: I can't say whose fault it was. I do not, of my own knowledge, know of any other facts connected with the collision. I might tell a great deal of hearsay that was discussed on the Lee the morning after the collision, but that would hardly be evidence.

Cross-interrogatories:

To first cross-interrogatory: I don't know the exact hour; but it was after twelve o'clock at night.

To second cross-interrogatory: I have answered this in my answers to interrogatories-in-chief.

To third cross-interrogatory: I did not leave that place from the time the Lee left Natchez until the collision occurred. I have stated above in detail where I was, and what I was doing.

To fourth cross-interrogatory: It was a dark, windy, cold, sleety night. I think the Lee remained at Natchez three or four hours.

To fifth cross-interrogatory: I have answered this as fully as possible in my answers to interrogatories-in-chief. The cause of my being up was that I did not want to go to bed until the boat left Natchez.

To sixth cross-interrogatory: I did not take as many drinks that night as I saw Charley Pierce take.

556 To seventh cross-interrogatory: I was neither in the pilot-house of the Lee nor in a position from which I could see who was there.

To eighth cross-interrogatory: I don't know whose watch it was; but as the captain was up I suppose it was his watch.

To ninth cross-interrogatory: I can't say exactly; but a very short time.

To tenth cross-interrogatory: The boats were between a mile and a mile and a half above the Natchez wharf, and probably a little above Brown's mill.

To eleventh cross-interrogatory: I did not go out on the guards of the Lee after she left Natchez, until after the collision occurred, as I have stated in my answers to interrogatories-in-chief. Then I went out on the port side.

To twelfth cross-interrogatory: I was not.

To thirteenth cross-interrogatory: I know nothing about these matters.

To fourteenth cross-interrogatory: The Potomac was between the Lee and the Louisiana shore.

To fifteenth cross-interrogatory: The bow of the Potomac struck the port or larboard side of the Lee about ten feet aft of the Lee's nose, breaking down the Lee's "bitts."

To sixteenth cross-interrogatory: The jack-staff of the Lee did not fall; that of the Potomac was broken off short.

557 To seventeenth cross-interrogatory: I don't remember hearing any bells except those that were rung to start the Lee ahead after the collision. I was in the cabin right over the bells when I heard them.

To eighteenth cross-interrogatory: The Lee steamed over to where she sank. I don't think she ever backed at all, as I heard no bells except those rung to start her ahead after the collision.

To nineteenth cross-interrogatory: The Lee sank on the Louisiana shore about opposite Brown's saw-mill.

To twentieth cross-interrogatory: The Lee sank soon after striking the bar, and about opposite where the collision occurred.

To twenty-first cross-interrogatory: I took one drink with Chas. Pierce, at Natchez, and then backed out of the crowd he was with, as they were drinking too fast for me. Besides this drink with Pierce I took one more that night, which was just after the Lee left Natchez, and before the collision.

To twenty-second cross-interrogatory: I did not see the Potomac till after the collision.

To twenty-third cross-interrogatory: I have answered this question above.

To twenty-fourth cross-interrogatory: I know nothing of the matters herein enquired of.

To twenty-fifth cross-interrogatory: I have already answered this in my answers to interrogatories-in-chief.

558 To twenty-sixth cross-interrogatory: I have nothing to state under this interrogatory.

REEVE LEWIS.

Sworn to and subscribed before me this first day of February, A. D. 1873.

E. HOWARD FARRAR,
Com'r ad hoc.

ELI TULLIS, sworn, states:

To first interrogatory: My name is Eli Tullis; age forty; residence Tensas Parish, Louisiana; occupation planter. I am acquainted with John W. Cannon, but not with the other parties.

To second interrogatory: I do know something about the collision.

To third interrogatory: I was on the Lee.

To fourth interrogatory: I got on the Lee as a passenger on Tuesday evening at five o'clock, at New Orleans, and remained on her until late in the day on Thursday, after the collision, which occurred on Wednesday night.

To fifth interrogatory: I am well acquainted with John W. Cannon; had often travelled on the Lee before the collision, and am familiar with her whistle. About her mode of handling I know nothing but hearsay.

To sixth interrogatory: I have never had any professional experience in river or ocean navigation. I can't say that I could
559 give an assurred opinion of distances and directions on water at night.

To seventh interrogatory: I did know Charles J. Pierce at the time of the collision, and have known him quite well for six or seven years.

To eighth interrogatory: I was not in the immediate company of Charley Pierce that night, but saw him in the social hall of the Lee while she was lying at Natchez.

To ninth interrogatory: I cannot say that I saw Pierce actually drink anything, but I saw him standing at the bar with a party of his friends and acquaintances, who were drinking and making a good deal of noise.

To tenth interrogatory: No answer to make to the matters herein enquired of, as I did not drink with him myself.

To eleventh interrogatory: In my opinion, Pierce was under the influence of liquor.

To twelfth interrogatory: I do not know, of my own knowledge, that there was anybody besides Pierce in the pilot-house at the time of the collision.

To thirteenth interrogatory: I was in the cabin of the Lee when she left Natchez, and therefore know nothing about the course she took after leaving the wharf.

560 To fourteenth interrogatory: I know nothing about the matters enquired of in this interrogatory.

To fifteenth interrogatory: I do not remember exactly whether I was in the pantry, where I had been eating some oysters, or in the social hall, at the moment the Lee left Natchez; but at the time of the collision I was standing by the stove in the social hall. The first indication I had of the approach or presence of another steamer was the shock and noise of the collision. Immediately after the collision I went back towards the ladies' cabin, and was standing by the stove, just forward of the ladies' cabin, when Mr. Campbell, the former steward, and the present captain of the Lee, came walking by very fast and told us that we had been run into by another boat. I then went forward and started out on the guards, when I met one of the clerks of the boat, who told me that we were sinking. I then went back into the cabin, got my little boy, and went down below on the main deck, where everything seemed to be in great confusion. After I saw that we would soon reach the bar I went back up-stairs.

To sixteenth interrogatory: I know nothing about the positions of the boats before the collision, as I was not out of the cabin until after-

wards. The Lee seemed to me to be going up the river at the usual rate at the time the collision occurred. I know not whether the Potomac had any headway. When I went down on the main deck after the collision the Lee had started, and was heading over towards the
561 Louisiana shore. I can't say whether she went in closer to the Natchez shore before she started towards the Louisiana shore or not.

To seventeenth interrogatory: The last I saw of Capt. Cannon was just a moment before the collision. He was standing in front of the stove in the social hall. He had been conversing with myself and a party of gentlemen about the expense of sending a bale of cotton to the pickery. Capt. Cannon came into the cabin soon after the Lee left Natchez. I do not know whether he had been on the roof or not.

To eighteenth interrogatory: I heard no whistles from either boat before the collision. I think I would have heard the Lee's whistle if it had sounded. The Lee's whistle is loud and sonorous.

To nineteenth interrogatory: If the Lee had sounded her whistle it could readily have been heard in the cabin. As I have stated, the last I saw of Capt. Cannon was only a moment before the collision, and if he did leave the cabin it could have been only a moment before, or rather simultaneously with, the collision.

To twentieth interrogatory: When the Lee was struck she was run over on the bar on the Louisiana shore. I do not know who advised that step. She was landed about opposite Brown's mill. The collision was about opposite the saw-mill, I think. The saw-mill is
562 between a mile and a mile and a half above the wharf at Natchez.

To twenty-first interrogatory: I do not know.

To twenty-second interrogatory: I can't say whose fault it was. I know of no other facts in the case.

Cross-interrogatories:

To first cross-interrogatory: I think it was after twelve o'clock at night.

To second cross-interrogatory: I was in the cabin. I don't remember whether I was eating oysters or warming by the stove.

To third cross-interrogatory: I can't say exactly how long. I have answered the rest of this interrogatory in my answer in interrogatories-in-chief.

To fourth cross-interrogatory: It was a very cold, dark night. I can't say exactly how long the Lee lay at Natchez, but it was some time.

To fifth cross-interrogatory: I have stated that I was in the social hall at the time of the collision. The cause which induced me to be there was my own will and pleasure.

To sixth cross-interrogatory: As I did not see Charley Pierce actually swallow any drinks, I must say that I took more drinks than I saw him take.

563 To seventh cross-interrogatory: I know nothing about the matters inquired of in this interrogatory.

To eighth cross-interrogatory: I don't know whose watch it was.

To ninth cross-interrogatory: About fifteen or twenty minutes, I suppose.

To tenth cross-interrogatory: I have answered all the matters herein enquired of in my answers to interrogatories-in-chief.

To eleventh cross-interrogatory: I did not go out until after the collision.

To twelfth cross-interrogatory: I was not.

To thirteenth cross-interrogatory: I know nothing about the matters herein enquired of.

To fourteenth cross-interrogatory: Judging from the hole in the Lee, I would say that the Potomac was between the Lee and the Louisiana shore.

To fifteenth cross-interrogatory: I do not know what part of the Potomac struck the Lee; from inspection the day after the collision, I found out that the Lee was struck on the port, or larboard side, just aft of the stem.

To sixteenth cross-interrogatory: I know nothing of the matters herein enquired of.

564 To seventeenth cross-interrogatory: I heard no bells at all before the collision. After the collision, I heard the "go ahead" bells rung to start the Lee over towards the Louisiana shore.

To eighteenth cross-interrogatory: The Lee steamed over to the bar where she sank.

To ninteenth cross-interrogatory: About opposite Brown's saw-mill, I think, near the Louisiana shore.

To twentieth cross-interrogatory: I can't say exactly how long; she sunk about opposite the place of collision.

To twenty-first cross-interrogatory: All the drinks I took, which were few in number, were when Charles Pierce was not present; I did not drink with him.

To twenty-second cross-interrogatory: I know nothing of the matters herein enquired of.

To twenty-third cross-interrogatory: It was a very dark, cloudy, cold night.

To twenty-fourth cross-interrogatory: I know nothing of the matters herein enquired of.

To twenty-fifth cross-interrogatory: I have not.

To twenty-sixth cross-interrogatory: No answer to make to this interrogatory.

ELI TULLIS.

Sworn to and subscribed before me this 1st day of February, A. D. 1873.

E. HOWARD FARRAR,
Commissioner ad hoc.

565 TULLIS WATSON, sworn, states:

To first interrogatory: My name is John Tullis Watson; age 28; occupation, planter; residence, Tensas Parish, Louisiana; I know John W. Cannon, not the other parties.

To second interrogatory: I do know something about the collision.

To third interrogatory: On the Lee.

To fourth interrogatory: I got on the Lee as a passenger at New Orleans, on Tuesday evening, and remained on her until the morning after the collision.

To fifth interrogatory: I have known John W. Cannon since my childhood; I had often travelled on the Lee before the collision, and am familiar with her whistles; I have always heard that she handled well.

To sixth interrogatory: I have had no such experience, and have no confidence in my ability to give such an opinion.

To seventh interrogatory: I know Charles J. Pierce by reputation, and by sight, but not personally. I had known him in this way about a year or two before the collision occurred.

To eighth interrogatory: I was not in the immediate company of

Pierce that night, but I saw him in the cabin of the Lee while she was lying at Natchez.

566 To ninth interrogatory: I do not remember noticing Pierce drinking while the boat was lying at Natchez, as I was engaged in playing cards for a good part of the time; but I remember seeing him take a drink with Mr. Connor, just after we left Fairview landing, before we got to Natchez.

To tenth interrogatory: I have no answer to make to this interrogatory.

To eleventh interrogatory: I know nothing about the matters herein inquired of, as I did not notice Pierce enough to determine whether he was under the influence of liquor or not.

To twelfth interrogatory: I know nothing about the matters herein inquired of.

To thirteenth interrogatory: I was playing cards in the cabin when the Lee left Natchez; I know nothing about the course she took after leaving the wharf.

To fourteenth interrogatory: I know nothing about the whereabouts of Pierce.

To fifteenth interrogatory: As stated, I was sitting in the cabin near the stove when the Lee left Natchez. The first indication I had of the approach of another steamer was the crash of the collision. I immediately rose from my seat and ran to the front of the cabin, and

567 out on to the guards on the port side of the Lee, when I saw a steamer floating stern foremost down the river on our port side and below us; I then went down on the main deck, and down into the hold of the Lee, with Jack Sullivan, the mud-clerk of the Lee, where I examined the hole made in the Lee by the collision.

To sixteenth interrogatory: I did not see the boats until after the collision occurred. When I went out on the guards after the collision, the Lee was heading up the river. She seemed to me by the lights on the bank at Brown's mill, that she was pretty close into the Natchez shore. The collision took place about opposite Brown's mill. I did not see the boats when they came together; the Lee seemed to me to be going up the river at the usual rate at the time of the collision. I do not know whether the Potomac had any headway or not. The Lee soon after the collision went over to the Louisiana shore. I do not know whether she moved in any closer to the Natchez shore. It was some minutes after the collision before the Lee started ahead, and I thought they were hesitating to which shore they would go.

To seventeenth interrogatory: The last I saw of Capt. Cannon was just before the collision; he was then sitting by the stove in the social hall. I do not know whether he had been on the roof or not.

To eighteenth interrogatory: I heard no whistles from either boat before the collision. Her whistle is very loud. I can't say whether I would have heard it or not.

568 To nineteenth interrogatory: I think that the Lee's whistle could readily have been heard in the cabin hall. I do not know at what time Capt. Cannon left the cabin.

To twentieth interrogatory: She was run over to the bar on the Louisiana shore. I do not know who advised it. She was landed about opposite Brown's saw-mill. Collision was about opposite too. Saw-mill about a mile or a mile and a half above Natchez.

To twenty-first interrogatory: I don't know.

To twenty-second interrogatory: I can't say. I know of no other facts.

Cross-interrogatories:

To first cross-interrogatory: After twelve o'clock, I think.

To second cross-interrogatory: I have answered this above.

To third cross-interrogatory: I don't know exactly. I have answered the rest above.

To fourth cross-interrogatory: It was a cold, dark, sleety night. Lee stayed at Natchez a long time.

To fifth cross-interrogatory: I have answered this above. The particular cause was my own will and pleasure.

To sixth cross-interrogatory: I think I did.

569 To seventh cross-interrogatory: I was not.

To eighth cross-interrogatory: I don't know.

To ninth cross-interrogatory: About ten or fifteen minutes.

To tenth cross-interrogatory: I have answer'd all this above.

To eleventh cross-interrogatory: I did not go out until after the collision.

To twelfth cross-interrogatory: I was not.

To thirteenth cross-interrogatory: I know nothing about the matters herein enquired of.

To fourteenth cross-interrogatory: Between the Lee and the Louisiana shore.

To fifteenth cross-interrogatory: The bow of the Potomac struck the port bow of the Lee about ten feet aft of the Lee's stem.

To sixteenth cross-interrogatory: The jack-staff of the Potomac fell on board of the Lee; that of the Lee did not fall.

To seventeenth cross-interrogatory: I have no distinct memory about the matter; but I think I heard the engine-bells about the moment of the collision.

To eighteenth cross-interrogatory: The Lee steamed over to

570 where she sank. I don't think the Lee ever backed at all. As I have stated above, it was a minute or two after the collision before the Lee started ahead and over to the Louisiana shore.

To nineteenth cross-interrogatory: About opposite Brown's saw-mill, on the Louisiana shore.

To twentieth cross-interrogatory: The Lee sank almost as soon as she grounded, and about opposite to where the collision occurred.

To twenty-first cross-interrogatory: I did. I don't remember how many I took.

To twenty-second cross-interrogatory: I did not see the Potomac until after collision.

To twenty-third cross-interrogatory: It was a very dark, cold night. It was cloudy.

To twenty-fourth cross-interrogatory: I know nothing about the matters herein enquired of.

To twenty-fifth cross-interrogatory: I have not.

To twenty-sixth cross-interrogatory: I have no answer to make to this interrogatory.

J. T. WATSON.

Sworn to and subscribed before me this 3d day of February, A. D. 1873.

E. HOWARD FARRAR,
Commissioner ad hoc.

571 And I, the said commissioner, did propound to each of the witnesses whose names are mentioned in the caption hereof, and whose depositions are contained in the foregoing thirty-six

pages, each of the interrogatories-in-chief and the cross-interrogatories contained in the annexed commission, at the times mentioned at the foot of each deposition, and at the place mentioned in the caption hereof; and did write down immediately, and in his presence, his answers thereto; and when all the interrogatories and cross-interrogatories had been propounded seriatum to each of the aforesaid witnesses, answered, and the answers reduced to writing as aforesaid, I did read his answers so reduced over to each deponent; whereupon each of them did approve the same, with all the interlineations and erasures in each answer contained, and sign his name thereunto in my presence. The erasure of six words in the second and third lines from the bottom of page 3; the interlineation of the words "heading up the river as the Lee was," in the twelfth line from the top, and of the words "from half to," in the second line from the bottom of page 5; the interlineation of the words "I do not know," in the sixth line from the bottom of page 9; the erasure of the name of "J. T. Watson," in the thirteenth line from the bottom of page 14; and the erasure of six words in the second and third lines from the top of page 26, were all made and approved before signing. And this is my procès-verbal.

In testimony whereof I have set my hand and signature, as commissioner ad hoc, in the town of St. Joseph, State of Louisiana, this 8th day of February, A. D. 1873.

E. HOWARD FARRAR,
Commissioner ad hoc.

572 District court of the United States of America for the district of Louisiana, holding sessions in the city of New Orleans.

To Thomas P. Farrar, special U. S. commissioner at St. Joseph, La.:

Know ye that, reposing special trust and confidence in your integrity and ability, we hereby authorize and require you that you call and cause to come before you R. B. Dunbar, A. C. Watson, and others, witnesses for the claimants, residing in Tensas Parish, La., and them duly examine on the annexed interrogatories and cross-interrogatories, on oath, touching and concerning certain matters and things in a case now pending in the said court wherein John W. Cannon is libellant and the Steamboat Potomac and owners thereof are defendants, and the same examinations, so taken and reduced to writing, you certify under your hand and seal, and send enclosed to this court without delay, to be read in evidence on the trial of said cause, and send also this writ.

Witness the honorable Edward H. Durell, judge of the district court of the United States of America for the district of Louisiana, at the city of New Orleans, this 27th day of February, A. D. 1873.

[SEAL.] J. A. CHARBONNET,
Deputy Clerk.

United States district court. In admiralty.

JOHN W. CANNON
vs.
STEAMBOAT POTOMAC. } No. 9760.

Interrogatories to be propounded to R. B. Dunbar, A. C. Watson, and others, witnesses for the claimants in aforesaid cause, residing in Tensas Parish, La., distant from New Orleans more than one hundred miles, whose answers are to be used as evidence on the trial of aforesaid cause on behalf of the claimants:

573 First interrogatory. What is your name, age, and occupation, and where do you reside?

Second interrogatory. Are you acquainted with the parties to this suit? If so, state how long you have known them or either of them.

Third interrogatory. Do you know anything about a collision that occurred just above Natchez, on the Mississippi River, on or about the night of the 21st Dec., A. D. 1870, between the steamboats R. E. Lee and Potomac? If you say you do know anything about this collision, then state whether you were on either of said steamboats at the time; state which boat you were on and in what capacity you were on her, whether as a passenger or one of the crew.

Fourth interrogatory. If you have stated that you were on the Lee at the time the collision occurred, then state when you got on her and where you got on her, and for what purpose you got on her. Also state where you were at the time the collision occurred, and what you were doing at the time the collision occurred and just before it occurred. Answer fully as to this question.

Fifth interrogatory. Also state who was with you, where you were, giving names, at the time *of* the collision occurred, and what you did at the time, at the same time telling all that you may know about said collision, fully and in detail.

574 Sixth interrogatory. Did you hear any bells rung on the Lee that night, just before or just at the time of the collision? If you say you did, state what they were, and when they were rung. Also state whether you heard the whistle of the Lee before this collision, and also state if you know her whistle when you hear it.

Seventh interrogatory. Are there any other facts or circumstances within your knowledge tending in any way to show that this collision was attributable to the fault, misconduct, neglect, or carelessness of the officers and crew of the R. E. Lee? If so, answer as fully as if specially interrogated, and state them.

(Signed) GIVEN CAMPBELL,
Proctor for Claimants of Steamboat Potomac.

CLERK'S OFFICE.

A true copy.
New Orleans, Feb. 18, 1873.
[SEAL.] J. A. CHARBONNET,
Deputy Clerk.

United States district court, district and State of Louisiana. In admiralty.

JOHN W. CANNON
vs.
STEAMBOAT POTOMAC. } No. 9760.

John W. Cannon, libellant in the above-entitled cause, reserving the benefit of all just and legal exceptions whatsoever to the interrog-
575 atories by claimants propounded to R. B. Dunbar, A. C. Watson, and others, specially objecting to the examination of any witness not specially named in the said interrogatories, nevertheless propounds the following cross-interrogatories:

1st. At what time of the night of the coll'sion did the R. E. Lee leave the wharf-boat at Natchez?

2d. How long after she left the wharf-boat did the collision occur?

3d. When the Lee left the wharf-boat where were you? State where you were, in what part of the boat, and what you were doing from the time the Lee left the wharf-boat at Natchez until the collision occurred.

4th. At what time did you first see the Potomac that night? Where were you when you first saw her? Who was with you? What were you doing?

5th. When you first saw the Potomac that night which way was she pointing? Which way was the Lee pointing at that time? Were the engines of either boat in motion at that time? Which boat's engines were in motion at that time? Were they giving ahead or backing?

6th. What part of the Potomac came in contact with the Lee? What part of the Lee was struck by the Potomac? What was the nature and extent of the injury done to the Lee?

7th. How far was the place of the collision from the wharf-boat at Natchez? At the moment of collision how far was the Lee from the Natchez side of the river? How far was she from the Louisiana side?

576 8th. Did the Potomac approach the Lee from the Natchez side or from the Louisiana side? When the two boats collided was the Potomac between the Lee and the Louisiana shore or between the Lee and the Natchez shore? Describe the relative positions of the two boats from the time you first saw the Potomac until the collision occurred.

9th. What first attracted your attention to the Potomac? What whistles did you hear? On which boat were whistles blown which you heard before the collision? How long was this before the collision occurred?

10th. What bells did you hear before the collision? On which boat were the bells rung which you heard?

11th. If you attempt to give any answer to the 7th interrogatory in-chief you will state only facts of which you have personal knowledge, without attempting to give your opinion as to the fault of either boat; or, if you give any opinion, distinguish between the facts within your knowledge and your opinion, whatever it may be.

12th. Were you on the roof of the Lee, at any time after she left the wharf-boat at Natchez, before the collision occurred? If so, state at what time, how long before the collision, and what caused you to go on the roof; how long you remained on the roof, who was with you, what you were doing, and where you went when you left the roof.

13th. Were you outside of the cabin, on the deck forward of the cabin, at any time after the Lee left the wharf-boat at Natchez, before the
577 collision occurred. If so, at what time, how long before the collision, what caused you to go out, who was with you, how long you remained there, what you were doing, and where you went when you left the deck forward of the cabin.

14th. Where did you first learn that there was danger of a collision between the Lee and the Potomac? By what means did you learn this? Where were you at the time? What were you doing? Who was with you? What did you do? Where did you go?

15th. Was your wife or any female member of your family on the Lee at the time? Where was she? Did you not go to her or remain with her in the ladies' cabin, in the after part of the boat, when you ascertained that there was danger of a collision?

16th. What become of the Lee after the collision? Did she not ground and sink upon the bar? How far was the place at which she ground from the place of collision? Was it above or below the place

of collision? On which side of the river or nearest which shore did the Lee sink? How far was the place at which she sunk from the wharf-boat at Natchez?

17th. Was not the night of the collision an extremely cold one, and did not the passengers keep themselves in the cabin after the boat left Natchez?

18th. State any facts within your knowledge going to show at what distance above the wharf-boat at Natchez the collision occurred, which shore the Lee was near, which way the Lee was headed, on which
578 side the Potomac approached and struck her, which way the Potomac was headed, what parts of the two boats, respectively, came in contact, the nature and extent of the injury sustained by the Lee, and the manœuvering of the two boats, of which you have personal knowledge, from the time they came in sight of each other up to the moment of the collision.

(Signed) R. H. MARR,
Proctor for Cannon.

NEW ORLEANS, *February* 20, 1873.

CLERK'S OFFICE.

[SEAL.]
A true copy.
NEW ORLEANS, *February* 21, 1873.

STATE OF LOUISIANA,
Parish of Tensas:

Be it known that, by virtue of the annexed commission to me addressed, as "special commissioner," from the district court of the United States of America for the district of Louisiana, I, Thomas P. Farrar, commissioner aforesaid, did, on the 6th day of May, A. D. 1873, cause to come before me, at my office, in the town of St. Joseph, the witnesses in said commission named, to wit, R. B. Dunbar and A. C. Watson; and having first sworn the said witnesses upon the Bible to declare the truth, the whole truth, and nothing but the truth in answer to the questions propounded to them in the case in said court pending, wherein John W. Cannon is libellant and The Steamboat Potomac and owners thereof are defendants, the said witness R. B. DUNBAR, being first produced, answered the annexed interrogatories and cross-interrogatories as follows, viz:

579 To first interrogatory: My name is Richard B. Dunbar; my age is forty-two years; my occupation is that of a cotton-planter, and I reside in Tensas Parish, Louisiana.

To second interrogatory: I know John W. Cannon, libellant, and have known him about twelve years. I have seen the steamer Potomac, and know her when I see her, but do not know her owners.

To third interrogatory: Yes, I do know of said collision. It occurred on the night of the 21st December, 1870, between the steamers R. E. Lee and Potomac, on the river Mississippi, above Natchez. I was a passenger on the R. E. Lee at the time of said collision.

To fourth interrogatory: I took passage on said R. E. Lee at New Orleans, and my destination was St. Joseph, Louisiana. I went on said boat at New Orleans the evening before—Tuesday evening. At the instant of said collision I was in the rear portion of the gentlemen's cabin, playing a game of euchre, and had been playing a very short time before the incident.

To fifth interrogatory: I was playing cards with Messrs. E. Compton, B. Y. Wade, and another gentleman, whose name I have now forgotten, at the time of this incident. When this collision occurred I sprang up from the card-table and ran forward to ascertain what was the matter. I was utterly taken by surprise, because I heard no whistle be-
580 fore the crash of the boats sounded. If the R. E. Lee had blown her whistle before the collision I would most certainly have heard it. She did not blow it. When I reached the front guards the steamers (Lee and Potomac) had separated, the Potomac going down-stream, but rather inclining to the Mississippi or eastern side of the river, and the Lee seemed to be nearly stationary; and I then heard Captain Cannon order his pilot to put his boat (the Lee) over on the sand-bar, on the Louisiana side of the river. As I did not see the collision I cannot answer the remainder of the interrogatory.

To sixth interrogatory: I heard bells in the engine-room of the Lee a second or two prior to the crash of the collision. The sound of these bells and the crash from the violent contact of the two steamers were almost simultaneous. I heard no whistle preceding the accident. If a whistle had been blown I should have noted it. I am not familiar with the whistle of the Lee or of that of any other steamboat.

To seventh interrogatory. Being at the time of the occurrence in the back part of the Lee's cabin, I cannot say that any other neglect or carelessness of the officers of the Lee came to my knowledge save what I have stated. If the officers of both the Lee and Potomac had paid proper attention to their duties the occurrence could have easily been avoided. The night was clear, and either boat could have been seen from the other for a long distance.

581 And further this deponent saith not in answer to interrogatories-in-chief.

Cross-interrogatories:

To first cross-interrogatory: I think it was about nine o'clock at night—probably a little later. The ladies had mostly retired to their state-rooms about the time the Lee left the Natchez landing.

To second cross-interrogatory: It was only a few minutes—say ten or fifteen minutes.

To third cross-interrogatory: I have already answered this in my examination-in-chief. I was playing cards in the back part of the Lee's cabin when she left Natchez and when the collision occurred.

To fourth cross-interrogatory: I first saw the Potomac that night a few moments after the collision. I was on the front guards of the Lee when the Potomac caught my eye. I know not who was with me at the time; many persons were standing out on the guards there around me. I was looking with anxiety, and trying to ascertain if any damage had resulted from the collision.

To fifth cross-interrogatory: When I first saw the Potomac that night she appeared to be pointing down-stream, but rather inclining towards the Mississippi shore. The Lee was then, apparently, stationary, with her head pointing up the river. The engines of the Potomac seemed to be in motion, and she appeared to be progressing down the
582 river, inclining slightly (as I before said) to the eastern side of the river. The Lee, at that moment, seemed neither to back or go ahead.

To sixth cross-interrogatory. As I have already said, I did not see the collision, and do not know what part of the Potomac came in contact with the Lee. The larboard side of the Lee's bow appeared to

have been injured in the collision. She had a hole broken into her hull at that point, and this was the nature of the injury, so far as I could see or learn. This hole was as wide as a dwelling-house door, but not so long, and seemed to go into the cavity of the hull.

To seventh cross-interrogatory: The collision occurred a mile or so above the Natchez wharf-boat. I know not how far the Lee was from the Natchez or the Louisiana side of the river at the instant of collision, for I did not witness it.

To eighth cross-interrogatory: I cannot answer these questions, because, as said before, I was not present, and cannot know except from hearsay.

To ninth cross-interrogatory: The crash of the collision caused me to rush out of the cabin, and fixed my attention on both the Potomac and the Lee. I heard no whistles blown on either boat before the collision nor after.

To tenth cross-interrogatory: I heard the engine-bells rung on the Lee a second or so before the crash came on. If there were bells rung on the Potomac I did not hear them.

583 To eleventh cross-interrogatory: I have only stated facts. It is a fact that the night was a bright and clear one, and that the boats could see each other a long way off, and could have avoided a collision by ordinary prudence.

To twelfth cross-interrogatory: I was not on the roof of the Lee at the time specified, and therefore cannot answer this question.

To thirteenth cross-interrogatory: No, I was not; and further can't answer this.

To fourteenth cross-interrogatory: I did not learn that there was danger at all until after the boats had collided. This I learned by means of my ears and eyes. I was in the cabin playing cards with E. Compton, B. Y. Wade, and another gentleman, whose name I have forgotton. I sprang up from the card-table and went out on the front guards, and when the Lee ran over on the Louisiana sand-bar I went with her and on her, as it was too cold to jump overboard and swim or wade ashore.

To fifteenth cross-interrogatory: Yes; my wife and daughter were both with me on the Lee as passengers at the time. They were both in their state-rooms in the ladies' cabin. I went to them after I had ascertained that there was no danger of losing lives. I could not go to assure them that there was danger of a collision when I knew of none in prospect.

To sixteenth cross-interrogatory: After the collision the Lee was run on to a sand-bar on the Louisiana shore, and there grounded
584 fast. I know not how far this was from the spot where the collision occurred, and cannot say whether it was above or below that point. I did not see the Lee sink—she did not sink—she was run aground on the Louisiana sand-bar, and could not sink. The point where she was run aground was a mile or so above the Natchez wharf-boat.

To seventeenth cross-interrogatory: It was extremely cold, and the passengers, so far as I saw, kept themselves in the cabin after the Lee left Natchez.

To eighteenth cross-interrogatory: When I rushed out of the Lee's cabin at the sound and jar of the collision, I judged the two boats to be about a mile or so above the wharf-boat, and therefore inferred that the collision had occurred about that spot. The Lee was near the middle of the river, with her bow headed up-stream; can't say how the Potomac approached the Lee, but she struck her on the larboard side,

a little aft the bow; can't say what parts of the boats came in contact, except that the hole near the bow of the Lee showed that that point at least had been in contact with the Potomac. The Potomac was headed rather down-stream and inclined slightly to the Mississippi shore when I first saw her. The nature of the Lee's injury was a hole crushed in her bow, or near there; the hole was a little larger than a flour-barrel—about as wide as a house-door, but not so long. How the boats manœuvered before coming in contact I cannot say, not
585 knowing; but if they manœuvered at all, it was in a mysterious way, and carried on so silently as to keep me in profound ignorance of their dangerous proximity.

And further deponent saith not.

R. B. DUNBAR.

Sworn to and subscribed before me, at St. Joseph, Louisiana, on this 6th day of May, 1873.

THOS. P. FARRAR,
Special Commissioner.

And the said witness A. C. WATSON, being next produced, answered the annexed interrogatories and cross-interrogatories as follows, viz:

To first interrogatory: My name is Augustus C. Watson. My age is forty-six years. My occupation is that of cotton-planter, and I reside in the parish of Tensas, Louisiana.

To second interrogatory: I know John W. Cannon, libellant, and have known him about fifteen years. I have seen the steamer Potomac, and do not know her owners.

To third interrogatory: I do know that a collision occurred about that date, on the Mississippi River, between the R. E. Lee and another steamboat. I do not know of my own knowledge that that boat was the Potomac. I was on the R. E. Lee as a passenger at the time.

To fourth interrogatory: I got on the Lee in New Orleans on the evening before (Tuesday evening). I got on her to come home, and my landing then was at Rodney, Mississippi. I was in the so-
586 cial hall of the Lee, sitting by the stove, when the collision took place, engaged in conversation with several gentlemen around the stove, among whom Captain John W. Cannon, the libellant, was sitting, with his feet on the fender of the stove. The first notice I had that anything was wrong, the engine-bells of the Lee were rung, and Capt. Cannon sprung up from his seat and started for the door. In a few seconds after the bells rung, and before Cannon got to the door, the crash of the collision occurred. I do not remember of hearing a steam-whistle before the collision, although one might have been blown.

To fifth interrogatory: Reeve Lewis, Tullis Watson, Eli Tullis, and John Mossup, and old John W. Cannon were all around at the time of the collision. I ran back to get a life-preserver after I had heard there was danger of the boat sinking. The Lee was soon run on to the sand-bar on the Louisiana shore, and being there hard aground, the passengers made themselves as comfortable as they could until next morning.

To sixth interrogatory: I have answered all of this before.

To seventh interrogatory: I know of no other facts connected with and important to this enquiry.

And further deponent saith not to the interrogatories-in-chief.

Cross-interrogatories:

To the cross-interrogatories this witness answers as follows, viz:

587 To first cross-interrogatory: I have no idea. It was after bed-time.

To second cross-interrogatory: I do not know; but it was not an hour.

To third cross-interrogatory: I was in the pantry, eating oysters. I stayed in the pantry until just before the collision, when I came out into the social hall, and was engaged in conversation as I before stated.

To fourth cross-interrogatory: I saw some steamboat going towards Natchez, which I was told was the Potomac. I was on the guards when I saw her first. Many were with me, but I know not who they were. I was looking on, doing nothing.

To fifth cross-interrogatory: If the boat I saw was the Potomac, she was pointing down-stream. The Lee was pointing up-stream. The engines of the other boat were in motion; those of the Lee were not. The boat I was told was the Potomac was going ahead apparently.

To the sixth cross-interrogatory: I don't know. I saw a hole in the Lee's bow. The nature of the injury was a hole in her; the extent I don't know.

To seventh cross-interrogatory: I don't know; can't say; can't answer this, because I don't know.

To eighth cross-interrogatory: I don't know; can't answer this,
588 because I don't know. The boat called the Potomac was below and about in the rear of the Lee when I saw her.

To ninth cross-interrogatory: My attention was not attracted to the Potomac at all. I heard no whistles; can't say on which boat the whistles were blown, which I did not hear. Can't answer this any further.

To tenth cross-interrogatory: I heard the Lee's engine-bells a second or so before the collision, and they were rung on the Lee.

To eleventh cross-interrogatory: I have endeavored strictly to follow the advice contained in this cross-interrogatory throughout my testimony.

To twelfth cross-interrogatory: No.

To thirteenth cross-interrogatory: No.

To fourteenth cross-interrogatory: I never learned it until I felt the shock, and then I discovered it by means of my five senses. I was in the social hall, talking; Lewis, Tullis, and Watson were with me. I did nothing, but went to the rear.

To fifteenth cross-interrogatory: No.

To sixteenth cross-interrogatory: She was run over on a bar, and grounded on the Louisiana shore; don't know how far this was from the place of collision; can't say whether it was above or below.

589 To seventeenth cross-interrogatory: The Lee did not sink at all. She grounded a mile or more above the wharf-boat at Natchez.

To eighteenth cross-interrogatory: I have stated all the facts I know about the collision and the results, and can make no further answer.

And further deponent saith not.

A. C. WATSON.

Sworn to and subscribed before me this 6th May, 1873.

THOS. P. FARRAR,
Special Commissioner.

And having carefully reduced the answers of the said two witnesses to the annexed interrogatories and cross-interrogatories to writing, I read them all over to said witnesses, who, after fully approving the

a little aft the bow; can't say what parts of the boats came in contact, except that the hole near the bow of the Lee showed that that point at least had been in contact with the Potomac. The Potomac was headed rather down-stream and inclined slightly to the Mississippi shore when I first saw her. The nature of the Lee's injury was a hole crushed in her bow, or near there; the hole was a little larger than a flour-barrel—about as wide as a house-door, but not so long. How the boats manœuvered before coming in contact I cannot say, not
585 knowing; but if they manœuvered at all, it was in a mysterious way, and carried on so silently as to keep me in profound ignorance of their dangerous proximity.

And further deponent saith not.

R. B. DUNBAR.

Sworn to and subscribed before me, at St. Joseph, Louisiana, on this 6th day of May, 1873.

THOS. P. FARRAR,
Special Commissioner.

And the said witness A. C. WATSON, being next produced, answered the annexed interrogatories and cross-interrogatories as follows, viz:

To first interrogatory: My name is Augustus C. Watson. My age is forty-six years. My occupation is that of cotton-planter, and I reside in the parish of Tensas, Louisiana.

To second interrogatory: I know John W. Cannon, libellant, and have known him about fifteen years. I have seen the steamer Potomac, and do not know her owners.

To third interrogatory: I do know that a collision occurred about that date, on the Mississippi River, between the R. E. Lee and another steamboat. I do not know of my own knowledge that that boat was the Potomac. I was on the R. E. Lee as a passenger at the time.

To fourth interrogatory: I got on the Lee in New Orleans on the evening before (Tuesday evening). I got on her to come home, and my landing then was at Rodney, Mississippi. I was in the so-
586 cial hall of the Lee, sitting by the stove, when the collision took place, engaged in conversation with several gentlemen around the stove, among whom Captain John W. Cannon, the libellant, was sitting, with his feet on the fender of the stove. The first notice I had that anything was wrong, the engine-bells of the Lee were rung, and Capt. Cannon sprung up from his seat and started for the door. In a few seconds after the bells rung, and before Cannon got to the door, the crash of the collision occurred. I do not remember of hearing a steam-whistle before the collision, although one might have been blown.

To fifth interrogatory: Reeve Lewis, Tullis Watson, Eli Tullis, and John Mossup, and old John W. Cannon were all around at the time of the collision. I ran back to get a life-preserver after I had heard there was danger of the boat sinking. The Lee was soon run on to the sand-bar on the Louisiana shore, and being there hard aground, the passengers made themselves as comfortable as they could until next morning.

To sixth interrogatory: I have answered all of this before.

To seventh interrogatory: I know of no other facts connected with and important to this enquiry.

And further deponent saith not to the interrogatories-in-chief.

Cross-interrogatories:

To the cross-interrogatories this witness answers as follows, viz:

587 To first cross-interrogatory: I have no idea. It was after bed-time.

To second cross-interrogatory: I do not know; but it was not an hour.

To third cross-interrogatory: I was in the pantry, eating oysters. I stayed in the pantry until just before the collision, when I came out into the social hall, and was engaged in conversation as I before stated.

To fourth cross-interrogatory: I saw some steamboat going towards Natchez, which I was told was the Potomac. I was on the guards when I saw her first. Many were with me, but I know not who they were. I was looking on, doing nothing.

To fifth cross-interrogatory: If the boat I saw was the Potomac, she was pointing down-stream. The Lee was pointing up-stream. The engines of the other boat were in motion; those of the Lee were not. The boat I was told was the Potomac was going ahead apparently.

To the sixth cross-interrogatory: I don't know. I saw a hole in the Lee's bow. The nature of the injury was a hole in her; the extent I don't know.

To seventh cross-interrogatory: I don't know; can't say; can't answer this, because I don't know.

To eighth cross-interrogatory: I don't know; can't answer this,
588 because I don't know. The boat called the Potomac was below and about in the rear of the Lee when I saw her.

To ninth cross-interrogatory: My attention was not attracted to the Potomac at all. I heard no whistles; can't say on which boat the whistles were blown, which I did not hear. Can't answer this any further.

To tenth cross-interrogatory: I heard the Lee's engine-bells a second or so before the collision, and they were rung on the Lee.

To eleventh cross-interrogatory: I have endeavored strictly to follow the advice contained in this cross-interrogatory throughout my testimony.

To twelfth cross-interrogatory: No.

To thirteenth cross-interrogatory: No.

To fourteenth cross-interrogatory: I never learned it until I felt the shock, and then I discovered it by means of my five senses. I was in the social hall, talking; Lewis, Tullis, and Watson were with me. I did nothing, but went to the rear.

To fifteenth cross-interrogatory: No.

To sixteenth cross-interrogatory: She was run over on a bar, and grounded on the Louisiana shore; don't know how far this was from the place of collision; can't say whether it was above or below.

589 To seventeenth cross-interrogatory: The Lee did not sink at all. She grounded a mile or more above the wharf-boat at Natchez.

To eighteenth cross-interrogatory: I have stated all the facts I know about the collision and the results, and can make no further answer.

And further deponent saith not.

A. C. WATSON.

Sworn to and subscribed before me this 6th May, 1873.

THOS. P. FARRAR,
Special Commissioner.

And having carefully reduced the answers of the said two witnesses to the annexed interrogatories and cross-interrogatories to writing, I read them all over to said witnesses, who, after fully approving the

same, signed them in my presence, after having been duly sworn as aforesaid, and this is my procès-verbal of the execution of the said commission, which procès-verbal I now sign and close, at my office, in the town of St. Joseph, Louisiana, on the 6th day of May, A. D. 1873.

THOS. P. FARRAR,
Special Commissioner.

JOHN W. CANNON
vs.
STEAMBOAT POTOMAC. } No. 9760.

Testimony taken, by consent, at the office of Alfred Ingraham,
590 commissioner of the United States, No. 61 Camp street, in the city of New Orleans, on the 13th day of March, 1872. R. H. Marr, esq., representing libellant; Given Campbell, esq., representing claimants.

HENRY ALFREDS, sworn and examined for claimant, says:

I reside in Covington, Ky.

Q. What is your business?

A. Steward on the river.

Q. How long have you been running the river?

A. I could not exactly tell the number of years, but ever since I was a boy.

Q. Were you on the Potomac at the time of the collision with the Lee in 1870?

A. I was, as steward.

Q. What time did you go to bed that night?

A. About ten o'clock. I generally go about that time.

Q. Tell all you know about this collision, beginning at the time when the boat passed the McGill, if you know anything about that?

A. I do not know anything about the McGill. I was asleep; but Shunk, the pilot, was in the texas making a good deal of noise. I heard the whistle blow twice right fast. I jumped out of bed and saw the Lee coming. My room is on the starboard side of the boat, in the texas. I immediately jumped out of the bed as soon as I heard the whistle. Shunk run out of the texas and holloed, "Back your boat!"

Q. Did you hear any engine-bells ring on your boat?

591 A. Yes; I heard our engine-bell ring—the backing-bell.

Q. How long after the whistle was blown before you heard the bells?

A. I could not say; I did not notice.

Q. Was it short or long after your whistle was blown?

A. I think they rung the bells right away as soon as he blowed his whistle.

Q. Then when you looked out how was your boat heading in the river?

A. Our boat was heading down-stream.

Q. About how far was she from the Natchez side of the river?

A. I could not tell; I was not on that side of the boat.

Q. How far was the Lee distant from the Potomac?

A. I should judge about fifty yards when I seen her.

Q. Which way was she heading at the time?

A. Right for our bow.

Q. What was her relative position in the river; straight up and down, or what?

A. I think quartering across over to the Natchez shore, by the way she looked to me.

Q. Did she appear to be coming fast or slow, or how?

A. I thought she was coming pretty fast, for her bells had just rung; I could not tell whether backing or go ahead. As I jumped out of bed and seen her I heard her bells ring then.

592 Q. You think, then, she was not more than fifty yards away?

A. Yes.

Q. Did you hear any whistle from the Lee?

A. I did not.

Q. Did you stay in the texas until the collision occurred?

A. Yes, sir; until the Lee swung round, hitting us broadside.

Q. How did the boats come together—in what shape?

A. We were heading down-stream and the Lee came up-stream, as though trying to cross our bow. If we were up there I could show you how they did come. It is pretty hard to tell without a map of the river. (Document marked A being shown witness, he says:) The description of the collision as it appears on that map (A) is just as it looked to me.

Q. Is that a correct description of the river and the adjacent shores there?

A. Yes; I think this is about the shape of the river; that is just about the shape of the river there.

Q. How long after your signals were blown before the two boats collided?

A. I can hardly say how long it was; but it could not have been a great while, because the Lee was not off any distance, and she is a pretty fast boat, and we were going down-stream with a big load of freight.

Q. State as near as you can come to it.

A. I could hardly say; I do not suppose that it was over five minutes. A person did not have much time to think.

593 Q. Do you know whether your boat was backing or not?

A. Our boat was backing.

Q. Do you know about how long she had been backing?

A. I could not say how long.

Q. Do you know whether her headway was checked or not?

A. I could not tell, because I did not look at the banks to see whether the headway was checked or not; I was looking at the Lee.

Q. Do you know whether your boat was straight in the river at the time or not?

A. I think she was straight in the river, for I could see Natchez.

Q. In what direction from where you stood?

A. Right out in front of the head of the boat.

Q. Did you see it abeam of the boat or right forward?

A. I seen it right out straight ahead.

Q. Did you see it alongside the chimneys?

A. I looked between us and the Lee and seen the lights of Natchez.

Q. Were the lights of Natchez between you and the Lee?

A. Yes, sir.

Q. And you were standing on the larboard side?

A. Yes; outside the texas.

Q. Did you see the lights inside the starboard chimney or outside the starboard chimney?

A. I think it was on the outside.

Q. Do you know whether your lights were burning properly that night on your boat?

594 A. Our signals? They were; because I looked at them myself.

Q. Do you know whether your boat had the full complement of officers and crew?

A. She had all the officers that were on any boat I ever was on—carpenter, mate, engineers, pilots, clerks.

Q. Did you see Capt. Shunk that night?

A. Yes.

Q. Where was he when the collision occurred?

A. The first time I seen him he was outside the texas. He halloed to the Lee to back. He was backing and he wanted the Lee to back.

Q. How did the Lee appear to be coming to you?

A. Just as I told you on that map.

Q. Coming quartering across your bow?

A. Yes.

Q. Do you know how far from the Natchez shore this collision took place?

A. No; I could not tell. I was not on that side of the boat.

Q. What way did the boats head immediately after the collision; as the Lee swung round alongside of the Potomac, which way were the boats heading that time?

A. After the Lee swung around both headed down-stream.

Q. Straight down-stream?

A. Yes; as near as I could see, for I could still see Natchez.

Q. When you speak of Natchez, do you mean the city or the wharf-boat?

595 A. The wharf-boat and that part of the city down near the wharf-boat. You cannot see the city; it is behind the hill.

Q. You heard the engine-bells of your boat distinctly?

A. Yes.

Q. You know she was backing?

A. Yes; at least her backing-bells rung and her wheels were backing. The engineer would know that.

Q. You are positive that you heard the bells of the Lee ring?

A. I heard the bells of the Lee ring when I seen her.

Q. And then she was not more than fifty yards from the Potomac?

A. Yes, sir.

Q. Coming head on?

A. Coming head on.

Q. What bells did you hear? How many bells did you hear on the Lee?

A. I did not hear only one bell. I did not know whether it was a backing-bell or to go ahead. I heard an engine-bell. I do not know anything about her bells.

Q. Do you know how the Potomac handles?

A. From what the pilot says, she handles well.

Q. What sort of a load did she have on that trip?

A. A pretty good load.

Q. Do you know whether your boat was rounding to at the time or not?

A. I am positive she was not rounding to.

596 Cross-examined:

Q. You were awakened by the whistle of your boat, or what?

A. The whistle and the captain making so much noise, and his jumping out and halloing for the Lee to back their boat.
Q. Did you immediately spring out of your *boat*?
A. I did, to see what the trouble was.
Q. Did you get out outside or inside the texas?
A. I went outside.
Q. Immediately?
A. Immediately.
Q. Did you wait to dress yourself?
A. No; I did not.
Q. In what part of the texas was your berth?
A. The starboard side of the texas.
Q. How far do you think that is from the forward end of the texas?
A. It is seven rooms back.
Q. Is not the captain's room in front?
A. I am counting that; six rooms and the texas hall.
Q. You heard the engine-bells of your boat ring just as you heard the whistles?
A. Yes; about that time.
Q. What sort of whistles were these?
A. Short, fast whistles, quick in succession.
Q. When you looked out you saw the Lee about fifty yards off?
A. Yes; that is as near as I could judge. I could not measure.
597 Q. At that time did you see either shore of the river?
A. I seen Natchez, but that is all I did see. I did not look to the right nor left, but straight down the river.
Q. You think it was the lights about the wharf-boat you saw?
A. Yes, sir.
Q. Did you notice the lights of the houses under the hill too, as well as the wharf-boat?
A. I noticed lights.
Q. You cannot locate them, whether they were on the wharf-boat or in the streets?
A. I judge some of them were on the wharf-boat; I think I saw the signal of the wharf-boat, besides other lights in the town.
Q. And you stood on the outside of the texas, looking forward to the bow, and saw these lights?
A. Yes.
Q. Which way did those lights appear from your chimneys, looking from where you stood on the starboard side; did you see your starboard chimney?
A. Yes, sir, of course.
Q. Which way did these lights show; inside or outside of your starboard chimney?
A. I could not exactly tell how they showed exactly. I looked straight out towards the chimney and seen the lights.
Q. From where you stood could you see anything on the inside of the starboard chimney?
A. Could I see between the chimneys, do you mean? Yes; I
598 would be as apt to see between the chimneys as outside, because her chimneys are very wide apart.
Q. And you cannot tell which way the lights bore from your starboard chimney?
A. Whether they were straight ahead or on the side? I thought they were straight ahead from where I stood.
Q. How far above Natchez was this?

A. I am not a judge of distances. I could not exactly say how far it was. I saw Natchez, and that is as near as I can go to it. I could not tell exactly how far.

Q. Have you observed how far up the stream or down you could see the lights of the wharf-boat at night?

A. A good ways. You can see a light at night a very good distance.

Q. I am talking about the shape of the river. How far off could you see these lights? From your knowledge of the shape of the river, how far from Natchez could you see the lights on the wharf-boat?

A. I suppose I could see a couple or three miles, may be.

Q. What noise was that you heard the captain make that waked you before you heard the whistle?

A. Talking pretty loud at first—him and the pilot. He then ran out and hallooed to the Lee to back. Of course I jumped out of bed to see what was the matter.

Q. It was conversation between the pilot at the wheel and the captain in the texas that woke you?

A. No; but the pilot off watch, in the texas; between that and the captain's noise outdoors.

599 Q. The pilot that was off watch was in the texas, talking to the captain?

A. Yes; at least I judge from the voice that it was the pilot.

Q. What were they talking about?

A. I do not know.

Q. Talking loud?

A. Pretty loud.

Q. As if excited?

A. No; they were not talking as if excited. Shunk is a very loud-talking man.

Q. That aroused you?

A. I say I suppose it was between that and his jumping out and hallooing for the Lee to back—"Back your boat!"—whatever boat it was. I suppose it was the Lee.

Q. What difference of time was there between Shunk's going out and halloing to back the Lee, and your coming out on to the starboard side of the texas?

A. I got out there as quick as I could, when I heard him.

Q. You merely had to open your door and jump out?

A. To jump out of bed and open the door. The door was right at the foot of the bed.

Q. And it was after you went out, and after he went out, that the whistle blew?

A. No; the whistle blew before I went out.

Q. Had you got out of bed when the whistle blew?

A. No; the whistle blew before I went out.

Q. Had you got out of bed when the whistle blew?

600 A. No; I had not got out of bed when the whistle blew. I say, between that and Shunk halloing made me jump out of bed.

Q. You jumped out of bed as soon as the whistle blew?

A. As soon as the whistle blew and his noise.

Q. Was that the first you heard of any whistle on your boat?

A. That was the first I heard whistle.

Q. Then you heard the engine-bell. Was that the first engine-bell you heard on your boat?

A. Yes, sir; I heard the engine-bell and whistle at just about the same time.

Q. You do not know what bell that was—whether a backing or stopping bell?

A. It was the backing-bell of our boat. I could not tell the speed my boat was making. I have no knowledge of that.

Q. Is Mr. Devinney still on the Potomac?

A. Yes, sir; he is roof-watchman, now.

Q. And you are still on the boat?

A. Yes, sir.

Redirect:

Q. Did you hear any whistle from the Lee?

A. I did not.

(Signed) HENRY ALFREDS.

STATE OF LOUISIANA,
Parish of Orleans, City of New Orleans, ss:

JOHN O'LOGHLEN, of the city of New Orleans, State of Louisiana, being sworn, deposes and says:

I took down the testimony of Harry Alfreds on the thirteenth day of March, 1872, at the office of Alfred Ingraham, commissioner
601 of the United States, No. 61 Camp street, in the city of New Orleans aforesaid, in stenographic notes, and that said stenographic notes contain strictly and literally all the testimony of said Henry Alfreds, and the foregoing twenty-three (23) pages contain the true and complete transcript and copy from said notes of the testimony of the said Henry Alfreds.

JOHN O'LOGHLEN.

Sworn to and subscribed before me this 23d day of October, 1872.
ALFRED INGRAHAM, [SEAL.]
Commissioner of the United States.

United States district court. In admiralty.

JOHN W. CANNON
vs.
STEAMBOAT POTOMAC. } No. 9760.

Testimony taken before Alfred Ingraham, United States commissioner. Counsel present, R. H. Marr, esq., proctor for libellant; and Given Campbell, esq., proctor for claimant.

WM. H. DEVINNEY, duly sworn, on his oath says: I reside in California, Campbell County, Kentucky. I am a river-man; sometimes I am a pilot, sometimes I run as mate, and sometimes I run as watchman. I have been on the river about twenty-two years. I was employed on the Potomac about the 21st of December, 1870, when she and the Lee collided. I was night-watchman on board of the Potomac. The collision occurred between eleven and twelve o'clock at night, about a mile and a half above Natchez wharf-boat, abreast of the
602 saw-mill, is as near as I can come to it—the saw-mill on the Natchez side of the river; I was on watch at the time. Before the collision occurred, a few minutes, I was standing along the larboard side of the steps in front of the Potomac, on the forecastle, when the Potomac passed a boat ascending the river; the Potomac passed the boat on her larboard; each boat blew two whistles. I did not then know

what boat that was; I afterwards learned that it was the McGill. This was some few minutes before the collision with the Lee.

Q. About how far was the Potomac above Natchez at the time she McGill?

A. I expect we were two miles anyhow.

Q. What course was the Potomac holding at the time she passed the McGill?

A. Heading into the bend—shaping the bend.

Q. About how far was she from the Natchez shore when she passed the Magill?

A. I could not say exactly; I did not take very particular notice. I should judge fully one-third out of the Natchez shore. I was down on deck and could not tell.

Q. After she passed the McGill what course did she pursue then?

A. She still kept shaping the bend, as far as I noticed. I did not notice very much after that; merely noticed the boat passing us. We went on shaping the bend.

Q. Would keeping that course naturally bring her any closer to the Natchez shore or not?

A. I should judge it would, if a man kept running the bend. I will not say that it did fetch her nearer.

603 Q. How long after this before you heard any whistle for another boat?

A. A very few minutes; may be five or ten minutes. I do not think it was ten minutes.

Q. What did you hear then?

A. I heard the Potomac blow two whistles.

Q. Did you look out then to see if you could see?

A. No; I did not notice anything until I heard the bells ring. That was the first I noticed.

Q. How long after the whistle was blown before you heard the bell ring?

A. A short time.

Q. What bells did you hear ring?

A. The Potomac's bells rung—her engine-bells.

Q. What did they ring for?

A. I suppose they rung to stop her; I do not know.

Q. Do you know whether she was stopped or not?

A. I do not; I do not know whether the engines were stopped or not; I was not back to see.

Q. What did you next observe?

A. I next observed the Lee within 150 yards of us.

Q. How was the Lee running?

A. Appeared to be pointed out towards the bend; kind of quartering across; I suppose running the point.

Q. Which way was the Potomac heading at that time?

A. Into the bend; towards the bend.

604 Q. Was the Potomac pursuing her proper course at that time?

A. I cannot say whether proper or not; she was shaping the bend.

Q. You are a river-man. Do you know whether that is a proper coures for a boat running that part of the river?

A. Yes, sir; it is the proper course, I believe.

Q. How did the Lee appear to you at that time to be coming?

A. The Lee appeared shaping out around the point—quartering in towards the bend.

Q. How was she coming at that time—coming for the Potomac?
A. No; kind of heading across.
Q. Across the bow of the Potomac?
A. Yes.
Q. Did I understand you to say the Potomac was heading down the river at the time?
A. Yes, sir.
Q. And the Lee was headed quartering across her bow?
A. Headed quartering out from the point. If she went off enough, it would have fetched her across our bows, of course. I suppose she was running the point.
Q. How far was the Potomac from the Natchez shore at that time?
A. I could not say.
Q. About how far?
A. I would not like to say, because I cannot say how far she was. I did not look.
Q. Was the Lee coming fast?
605 A. I thought so. They may be stopped for what I know, but they looked to be coming pretty fast.
Q. Did it appear to you that the Lee would strike the Potomac when you first saw her?
A. It appeared to me that the Potomac would strike the Lee.
Q. How?
A. I never went to see the Lee, or the place we struck her; but I thought we were going to strike her along about the derrick, or foot of the steps. I jumped over to the foot of the steps when we came right together, and staid there. I expected the jack-staff and everything to come down on deck.
Q. The jack-staff of what boat?
A. Of our own boat.
Q. How fast did the Lee appear to be coming?
A. I could not say; we were coming pretty close together, and she had very sharp headway, it then appeared to me. Both boats may have been stopped for what I know.
Q. How did it appear to you?
A. It appeared to me they were coming together pretty fast.
Q. Did the Lee appear to be moving to you?
A. I could not say—she to us or we to her; but we were coming together pretty fast.
Q. The Lee, you say, was quartering across the river?
A. Pointed out from the point of the bar; kind of heading out from the point; shaping over in an angular position towards the bend.
Q. What do you call that?
606 A. Kind of quartering out; but a man might angle quartering out nearly square.
Q. I do not mean square.
A. Well, we will say she was quartering, then.
Q. If the Potomac was pursuing her proper course down the river at the time that you saw the Lee, and kept in the proper course down the river, you say she would have struck the Lee?
A. Yes; I think she would.
Q. About the derricks?
A. Yes, sir.
Q. And she did strike her, you say?
A. Yes, sir.
Q. Whereabouts did she strike her?

A. I don't know exactly; I should judge somewhere about the steps or derrick; may be a little forward of that. Before they came together I jumped over behind the steps, and could not very well see from there.

Q. You jumped to avoid anything falling on you?

A. Yes; that was my intention.

Q. What is the proper course for an ascending boat running from Natchez?

A. It would be running the point, I should judge. I do not know how they do it down here; that is our fashion up in our country.

Q. If the Lee had been pursuing her proper course running the point, would she have come in contact with the Potomac?

A. I could not say. I do not know how far the Lee would have to stand out on that point to be in her proper position.

Q. You do not know her proper position in the river?

607 A. Yes; but there is a bar there, and I do not know how far out the Lee would have to stand.

Q. Was the Potomac rounding to at the time?

A. No; pursuing her way down the river.

Q. You are positive she was not rounding to?

A. I am.

Q. How was she at the time the collision took place, straight up and down the river?

A. Shaping with the bend; running the shape of the bend.

Q. You say this occurred about opposite the saw-mill?

A. Near abreast of the saw-mill.

Q. Did you hear any whistle from the Lee?

A. No.

Q. Were you in a place you could have heard her whistle?

A. I could have heard them, but she might have whistled and I might not have heard them. Very often a man don't pay any attention. Unless I am right out and notice a boat coming I do not notice a whistle very often.

Q. How long before the collision took place between the two boats did you hear your bells ring to back?

A. I should judge 100 or 150 yards of the Lee before the bells rung.

Q. Immediately after the whistles were blown you say?

A. Yes.

Q. Did you hear any backing bells on the Lee?

A. No; I did not. I do not think from where I was, and the excitement then, I could have heard them.

608 Q. Which way were the boats heading after the collision?

A. The boats came together and swung around. We went in on the bar, and the Lee went in above us. I did not notice particularly. I had as much as I could pay attention to, and did not pay attention to either of them.

Q. How were the boats headed as they came together?

A. In a kind of angle position. The Potomac pointed towards the bend and the Lee pointed out as if she was running the point.

Q. How did they swing after they struck?

A. Apart. After that I did not notice where they went. The next thing I knew the Potomac was laying on the shore.

Q. Were you frightened at the time?

A. No.

Q. Did you make any remarks to any one at the time?

A. Yes; to the captain. To notice that our signals were burning bright.

Q. Where was the captain?

A. On the roof.

Q. Who was on board the boat with you in front?

A. A couple of negroes; Berry was one. I do not know the name of the other. He is dead anyhow.

Q. What was Berry?

A. A rouster. I had him out there getting pine wood and helping me.

Q. Did you see Captain Shunk on the roof?

A. Yes, sir.

609 Q. That was just at the time of the collision?

A. Just after the collision.

Q. Did you hear Capt. Shunk say anything before the collision?

A. I did not; they were all halloing. I could not say I heard him any more than any of the rest. There was a great deal of excitement.

Q. How far off was the Lee when you first saw her?

A. I do not think to exceed 150 yards. I never saw the Lee until our bells rung, and the negro remarked: "Look out for a collision." I looked out and saw the Lee. She was not more than 150 yards.

Q. She appeared to be running across your bow?

A. Quartering, as if we were about to hit her larboard side of the steps. We were pointed to the bend, running quartering towards the Lee.

Q. What do you mean by pointed towards the bend?

A. Shaping the bend.

Q. Do you know whether the Potomac had a full complement of officers and crew?

A. I think she had. I do not know of anything short.

Q. How was the Potomac loaded?

A. She was loaded very deep.

Q. Do you know how she handles?

A. I do not. I never handled her.

Q. How old was the Potomac at that time?

A. About a year old, I believe. I could not say exactly, but I do not think she was over a year old.

Q. Do you know the pilots of the Potomac?

A. Yes, sir.

610 Q. Do you know what their reputation on the river is?

A. Good, I believe. I have never heard anything to the contrary.

Q. Do you know the engineers of the Potomac?

A. Yes.

Q. What were their characters as engineers?

A. Very good.

Q. Careful or not?

A. Careful, sober, good men.

Q. Did you notice whether the Potomac's lights were burning at the time?

A. Yes, sir.

Q. Were they?

A. Yes, sir.

Q. In their proper places?

A. Yes, sir.

Q. Is the Potomac a side-wheel or stern-wheel boat?

A. A side-wheel.

Q. Did you ever examine her engines?

A. I never did; except merely walked along and looked at them.

Q. How fast was she running down the river that night? What was her rate of speed?

A. I suppose she was making about eight mile' an hour.

Q. The Lee is a very fast boat?

A. She has the name of being a fast boat.

Q. And a very powerful boat?

A. Yes; I suppose she is.

Q. How was the Lee loaded that night?

A. She appeared to be pretty light.

611 Q. How high were her guards from the water?

A. I cannot say. High enough to lay us under. I could not say how high they were.

Q. Give your judgment.

A. I should say, probably, about four feet out of the water. High enough for our bow to go under.

Q. Did the Potomac hit the Lee head on, or how?

A. She hit the Lee about abreast of the steps—in the side.

Q. What part of the Potomac?

A. Our stem hit her; it shoved our stem over to the larboard—knocked our knee down.

Q. Which knee?

A. The knee on the starboard side. Shoved the stem-band over to the larboard—broke it, and shoved it over.

Q. Which way was the knee knocked?

A. The knee was knocked inboard.

Q. Square inboard?

A. Yes; square inboard; kind of shored aft.

Q. What damage was done to the Potomac?

A. She was tore away—her knee knocked down, and her jack-staff—and caused her to leak a little. I do not know exactly what damage was done. Broke her stem-band—pulled up the decks a little.

Q. What occurred after the collision? Were any signals blown then?

A. We blew three whistles, for assistance.

Q. Were they replied to?

A. I did not hear them—I heard no reply.

Q. Then you say your boat was run over to the bar?

612 A. We went in to the bar, got our pumps to work, and found we could keep the water out of her, and went to Waterproof.

Q. Did the Lee call for assistance?

A. No; they came down in a little while, and told us she was sunk.

Q. Where did she run?

A. I was not there to see: I did not see where she stopped. I had as much as I could attend to, without looking after the Lee. That is all I know about it

Cross-examined:

Q. Did you notice the signal-lights of the Lee?

A. I did not.

Q. You did not see them?

A. I did not notice them.

Q. Do you recollect where you were standing when you passed the McGill?

A. Larboard side of the steps, getting torch-wood to make a landing.

Q. Did you notice how far you were from the Natchez shore—the bend shore—when you passed the McGill?

A. I should judge we were about one-third of the way across the river—that is, from the Natchez shore; I would not say positive.

Q. Did you observe if you got any nearer into that shore after you passed the McGill, before you met the Lee?

A. I did not.

Q. The long and short was that you were attending to your own business, and not looking out?

613 A. Yes; I was not looking for the position of the boats, or how they were running.

Q. Did you notice the shores at all when you first saw the Lee?

A. I did not.

Q. And you are not prepared to say how far either boat was from either shore?

No; I am not. The first I noticed the shore was when we hit the sand; I was anxious to see it then. That was on the opposite side of the river from that.

Q. Did you observe whereabouts you went to that sand-bar—whether above or below the place you came into collision?

A. I think we went a little above, under a little bunch of timbers, standing way back from the shore; I think we were right under that when we went ashore. A little above the saw-mill, very little. I would not say positively we were above the saw-mill, or abreast of it, or below, the time we went ashore.

Q. Do you recollect what sort of a night it was?

A. A dark, bad night; a hazy kind of night.

Q. Have you any idea of what length of time it was from the time you heard the two whistles of your boat until you heard your engine-bells rung?

A. It was not but a very short time; I would not say exactly how long, but a very short time.

Q. When you heard the engine-bells you looked?

A. This negro remarked, "Look out for collision;" I then turned round and saw the Lee, I suppose 150 yards off; I do not think she was over that.

Q. You say you heard no whistle from the Lee?

614 A. I did not hear any; I do not say that she did not blow, but I did not hear any.

Q. What part of your boat came in collision with the Lee?

A. I could not say whether we struck her fair with the head or glancing, but we went under the guard. Before the boats came together, I jumped behind the steps, and could not see through the steps.

Q. It was your stem hit her?

A. Yes; our stem-band was broken and shoved to the larboard side, and the knee was broken and shoved aft.

Q. After the boats came together, did you see them swing apart?

A. I did; but could not tell which way they swung to save my life. I had all I could do to attend to my own business. I did not pay much attention, only to see whether we were sinking or not.

Q. Did these two negroes stay with you?

A. No; they went to the roof as quick as they could get there; they run.

Q. What time did they leave?

A. They left before I did, long.

Q. May be before the boats came together?

A. Yes, sir.

(Signed) WM. DEVINNEY.

STATE OF LOUISIANA,
Parish of Orleans, City of New Orleans, ss:

John O'Loghlen, of the city of New Orleans, State of Louisiana, being sworn, deposes and says: "I took down the testimony of William Devinney on the thirteenth day of March, 1872, at the office of
615 Alfred Ingraham, commissioner of the United States, No. 61 Camp street, in the city of New Orleans aforesaid, in stenographic notes, and that said stenographic notes contain strictly and literally all the testimony of said William Devinney, and the foregoing pages contain the true and complete transcript and copy from said notes of the testimony of the said William Devinney."

JOHN O'LOGHLEN.

Sworn to and subscribed before me this 28th day of November, 1872.

ALFRED INGRAHAM, [SEAL.]
Commissioner of the United States.

JOHN W. CANNON
vs.
STEAMBOAT POTOMAC. } No. 9760.

Testimony taken by consent, at the office of Alfred Ingraham, commissioner of the United States, No. 61 Camp street, in the city of New Orleans, on the 13th day of March, 1872; R. H. Marr, esq., representing libellant; Given Campbell, esq., representing claimant.

JOSEPH C. HOWELL, sworn and examined for claimant, says: I reside in Manchester, Adams County, Ohio.

Q. What is your business?

A. I am steamboating.

Q. Were you on the Potomac in 1870, at the time of the collision with the Lee?

616 A. Yes, sir.

Q. What was your business on board her?

A. I was a deck-hand on her.

Q. Were you up before this collision took place?

A. Yes, sir.

Q. Were you up when the McGill passed up past the Potomac?

A. I did not see the McGill; I did not notice her; I expect I was.

Q. Do you know whether any steamboat passed the Potomac before she saw the Lee?

A. I do not know.

Q. Just tell all you know; where you were at the time on board the Potomac, and what you were doing; and tell all you know about this collision?

A. All I know about it, I had got my head hurt with a stick of wood, and was up washing my head; I had got it split open; I was standing on the starboard guard about midship of the boilers, away out forward of the cookhouse; I had a bucket of water and was washing my head, and the Potomac whistled two distinct whistles; then I looked up to see what boat was coming, or what was up; I see this boat, the Lee, coming; I did not know what boat it was at the time; she was coming up and we were going down; the Potomac whistled; I stood there to see the boat pass; I did not hear any other boat whistle; I still stood there; the Lee came on up the river, and we were going on down, and

heard some man say, "Look out, we are going to have a collision;" at that, the Lee undertook to cross our bow, and we run into her.

617 Q. How far was the Potomac from the Natchez side coming down that time when you heard the whistle?

A. About a mile and three-quarters or two miles above Natchez.

Q. How far from the shore?

A. I suppose 150 or 200 yards from the Natchez side shore.

Q. How was she heading?

A. Heading for Natchez; right straight down the bend, in the bend.

Q. About 150 yards from the shore?

A. Yes, as nigh as I can come.

Q. Did you hear any engine-bells ring at the time your whistles were blown?

A. Yes, sir; I did.

Q. What time did the engine-bells ring?

A. Pretty soon after the whistles.

Q. Immediately afterwards?

A. Not right away. It was not very long. Some ten or fifteen, may be twenty minutes. Right away—I could not say exactly the time because I could not keep the time.

Q. What bells were rung on your boat?

A. Stopping bell and backing bell.

Q. Do you know whether the boat was backed and stopped?

A. Yes, right immediately. We were backing when we struck the Lee.

Q. Backing hard?

A. Backing all she could do, I think.

Q. Do you know whether her headway was checked or not?

618 A. No, not altogether; but it was pretty much checked. If not, it would have gone right clean through her.

Q. When you first saw the Lee, how far off was she?

A. I say between three and four hundred yards, may be five hundred.

Q. When you first saw the Lee?

A. Yes, sir.

Q. That was the time you heard your whistle blown?

A. Yes.

Q. And you looked out and saw her 400 yards or 500 yards off?

A. Yes.

Q. Which way was she coming?

A. Right at the foot of the bar; coming up around the foot of the bar.

Q. Running up the bar shore?

A. Yes; on the bar shore side.

Q. Then she changed her course?

A. As she came up she kind of sidled across, headed across towards the Natchez shore. That throwed her larboard side to our stem as we came down.

Q. When the boats came together, how was the Potomac heading?

A. For Natchez—right straight down the bend.

Q. How was the Lee heading when the Potomac struck her?

A. Right straight across for the deep water.

Q. Quartering across the river?

A. Yes; quartering across to the Natchez side.

619 Q. Look at this paper, marked "A." (Shown to witness.) Is that document correct, according to your idea?

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Q. Just tell all you know; where you were at the time on board the Potomac, and what you were doing; and tell all you know about this collision?

A. All I know about it, I had got my head hurt with a stick of wood, and was up washing my head; I had got it split open; I was standing on the starboard guard about midship of the boilers, away out forward of the cookhouse; I had a bucket of water and was washing my head, and the Potomac whistled two distinct whistles; then I looked up to see what boat was coming, or what was up; I see this boat, the Lee, coming; I did not know what boat it was at the time; she was coming up and we were going down; the Potomac whistled; I stood there to see the boat pass; I did not hear any other boat whistle; I still stood there; the Lee came on up the river, and we were going on down, and

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Q. Do you know whether the boat was backed and stopped?

A. Yes, right immediately. We were backing when we struck the Lee.

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A. I say between three and four hundred yards, may be five hundred.

Q. When you first saw the Lee?

A. Yes, sir.

Q. That was the time you heard your whistle blown?

A. Yes.

Q. And you looked out and saw her 400 yards or 500 yards off?

A. Yes.

Q. Which way was she coming?

A. Right at the foot of the bar; coming up around the foot of the bar.

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A. Yes; on the bar shore side.

Q. Then she changed her course?

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Q. When the boats came together, how was the Potomac heading?

A. For Natchez—right straight down the bend.

Q. How was the Lee heading when the Potomac struck her?

A. Right straight across for the deep water.

Q. Quartering across the river?

A. Yes; quartering across to the Natchez side.

619 Q. Look at this paper, marked "A." (Shown to witness.) Is that document correct, according to your idea?

A. It looks correct, where they came together. We struck her about forty feet from her stem, on the larboard quarter. That is about as nigh as I can come to it.

Q. Did the Lee have headway when you struck her?

A. I could not say; I do not know whether she had or not. She was heading across to the Natchez side. I think she had headway and was going ahead, from the way she knocked her stem-band around her stem-post to the larboard side when we struck; and knocked her jack-staff down and knee, and upset a wagon—furniture cart.

Q. How did the boats head immediately after the collision? Did they swing together?

A. No; they backed out. We were backing at the time of the collision, and kept backing; and then we went down to the wharf-boat, and the Lee went over to the bar. We had not been at the wharf-boat but a few minutes until the yawl came down—I do not know who were in her—and said that the Lee was sunk in nine feet of water on the bar.

Q. Did you hear any whistles on the Lee?

A. I did not.

Q. Did you hear any engine-bells on the Lee?

A. I did not.

Q. Did the Lee seem to you to be coming fast?

A. Yes; when I first saw her. When they went together, I could not say then, but she was under headway.

620 Q. You say where the collision occurred was about 100 or 150 yards from the shore on the Natchez side?

A. Yes; there is a saw-mill stands there somewhere on the bank, and it was pretty close to that.

Q. You are certain that your boat was headed straight down stream at the time?

A. Yes; I am positive of that.

Q. And you are certain that the Lee came quartering across from the bar?

A. Yes; heading for the deep water; she headed across there for the deep water.

Q. Did your boat have the full complement of officers and crew?

A. Yes.

Q. How was she loaded?

A. She was loaded tolerably deep. I have seen boats loaded deeper. She was loaded as near right as a steamboat could be loaded.

Q. You did not see where the two boats struck? You did not see exactly where the Potomac struck her at the time?

A. Yes; when we backed out.

Q. At the time, how did they come together? Did the Potomac strike her head on, or how?

A. Right square, head on; we were backing from her at the time, to avoid running into her, if we could.

Q. How much water was between where the collision took place and the bar shore?

A. I expect three-fourths of a mile; hardly that I expect. I do not know exactly how wide it is.

621 Q. Plenty of room there?

A. Yes; plenty of room for boats to pass.

Cross-examined:

Q. When you first saw the Lee was she running around the bar?

A. She was coming up at the foot of the bar.

Q. You mean on the side of the river opposite to Natchez?

A. I mean on the side of the river next the bar. The bar is on the opposite side from Natchez; a little above; about half a mile—on the opposite side from Natchez, above.

Q. The Lee had made the crossing over from the Natchez side, and was running that bar when you first saw her?

A. I do not know whether she landed at Natchez at all.

Q. She got above Natchez, and was on the opposite side of the river, running the bar above Natchez?

A. She was coming round the bar and heading then for the other side.

Q. You were standing on the starboard guard of your boat when you first saw her?

A. Yes.

Q. Did you stay there until the collision?

A. Yes.

Q. And did not go anywhere else?

A. I walked round; I wanted to see what boat was going past. Men always do.

Q. After you heard the whistle of your boat, you had time to walk around a little?

A. Not a great deal.

622 Q. Where did you go to? Did you get off that guard?

A. I walked backwards and forwards.

Q. Were you still all the time on that starboard side of the boat?

A. Yes; pretty much on that side all the time, until after the collision.

Q. Did you look out and see the shore?

A. Yes; both shores plain. I went to draw a bucket of cold water to wash my head.

Q. Did you draw that bukcet after you heard the whistle?

A. No.

Q. I am speaking of the time you heard the whistle, and you on the starboard guard. Did you look at the shore at that time?

A. Yes; I did; I always look out at the shore, and one thing or another. Any man when he comes out first do' that, to see where he is.

Q. I understand you to say that you were about midship, between the forward and aft end of the boilers?

A. About midship of the boiler, on the guard with a bucket of water, sitting down washing my head. I was stooped, and when my boat whistled it caused me to look out.

Q. From where you stood could you see the Natchez side of the river?

A. Yes; very plain.

Q. Could you see the other side of the river, too?

A. I saw the lights straight ahead.

Q. So you saw both shores from where you stood?

623 A. Yes; I could see as much there as if I was at the jack-staff.

Q. Did you hear your engine-bells ring?

A. Yes.

Q. How long was that after you heard the whistles?

A. I do not know how long it could be; it could not be over ten or fifteen minutes, or something like that; our stopping bells rung, and then we commenced to back—the backing bells rung, and we commenced backing.

Q. What portion of your boat hit the Lee?

A. Her stem hit her; went right under her guard; knocked our own

stem-band around to the larboard side. She must have been under pretty good headway, or she would not have turned our stem-band to the larboard side.

Q. Did you have time to walk around any after you heard the whistle until you heard the engine-bell?

A. I could if I wanted to.

Q. Then the engine-bell did not ring as soon as the whistle blew?

A. It was not very long after the whistle blew they rung, and we commenced backing too. That is all I know about it.

Q. You do not profess to know anything about the correctness of this map? Are you a pilot?

A. I am not a pilot.

Q. Do you know the shape of the river there well enough to know that (A) is a correct drawing or not?

624 A. I have been on the river nineteen years. I know pretty much what steamboats do.

Q. Do you know whether that (A) is a correct map or not?

A. That is about as nigh a correct map as I could draw it, I believe. That is about the situation.

Q. Standing on the starboard guard of your boat, where would you have to look to see the Lee?

A. Right down the river.

Q. After you first saw the Lee, she changed her course and left the bar?

A. Left the bar and headed across just as you got it drawn there (A).

Q. Did she leave that bar after your whistle blew?

A. I think she did.

Q. What was it first attracted your attention to the Lee?

A. Our whistles. When our boat whistled, I looked.

Q. Was that the first time you saw the Lee that night, after your boat whistled?

A. Yes. I did not know what boat it was until after the collision. Some of the men on the Lee holloed, "This is the Bob Lee; you can read her name." Some of our boys holloed back, "This is the big Indian; you can read her name."

Q. You never saw the Lee that night until you heard the whistle?

A. I did not until I heard the whistle, because I was not looking. When the whistle blew I looked up.

625 Q. Did you see when she left the bar?

A. No; I did not. I might when she left the bar—when she started to cross.

Q. Did you hear any whistle from the Lee that night?

A. I did not hear any whistle from the Lee.

Q. Did you hear any engine-bell on the Lee?

A. I did not.

Q. Are you still on the Potomac?

A. Yes, sir. I shipped this last trip.

Redirect:

Q. In speaking of the time between the blowing of the whistle and the ringing of the engine-bell, was it a long or a short time?

A. It was a short time; it was right away afterwards. When our whistles blew the bells commenced to ring.

Q. Right afterwards?

A. Right afterwards. I could not say how long exactly, as I was not

paying much attention. The stopping bell rung, and the backing bell rung.

(Signed) JOSEPH C. HOWELL.

STATE OF LOUISIANA,
Parish of Orleans, City of New Orleans, ss:

John O'Loghlen, of the city of New Orleans, State of Louisiana, being sworn, deposes and says:

I took down the testimony of Joseph C. Howell on the thirteenth day of March, 1872, at the office of Alfred Ingraham, commissioner of the United States, No. 61 Camp street, in the city of New Orleans aforesaid, in stenographic notes, and that said stenographic notes
626 contain strictly and literally all the testimony of said Joseph C. Howell, and the foregoing twenty-one (21) pages contain the true and complete transcript and copy from said notes of the testimony of the said Joseph C. Howell.

JOHN O'LOGHLEN.

Sworn to and subscribed before me this 23d day of October, 1872.
[SEAL.] ALFRED INGRAHAM,
Com'r of the United States.

United States district court. In admiralty.

JOHN W. CANNON
vs.
STEAMBOAT POTOMAC. } No. 9760.

Testimony taken in New Orleans, March 14th, 1873. Present, R. H. Marr, esq., proctor for libellant; Given Campbell, esq., proctor for claimants.

JOHN ISRAEL ASHBURY, sworn for claimants, says:

Q. What is your business?

A. Steamboat pilot.

Q. How long have you been a pilot, and in what rivers?

A. I have been a pilot nearly thirty-nine years, on the Mississippi and Ohio.

Q. Did you ever run in the trade between here and Vicksburg?

A. For over thirty years.

Q. What sort of boats?

A. The finest in the trade, always; on the packets. I was on the Lee five years.

627 Q. Do you know about what the stage of the water was about the 20th of December, 1870, about Natchez?

A. I recollect it was tolerably low; it was not dead low water either; but the water was down pretty well—on the banks; I recollect that.

Q. In that stage of water, in case you had been on the Lee as her pilot, leaving the wharf-boat at Natchez, for the purpose of ascending the river, would you follow the bar side or the other side, or how would you run your boat as you pulled out of the wharf-boat at Natchez?

A. Well, as a general thing, we go over towards the bar; the Lee was a very large boat, and we run as near the channel at that stage of water as possible—about the middle.

Q. The channel was nearer the bar?

A. The channel was closer to the bar on the other side.

Q. Supposing you were leaving the wharf-boat at Natchez, and you saw a descending steamer, distant a mile and a half or two miles, how would you navigate your boat, coming down the river?

A. If the boat was two miles off, I think I should go to the bar. Well, if I didn't see there was danger—if I thought I could get over to the bar with perfect safety, I would go there.

Cross-examination:

Q. Were you on the Lee on the night of this collision?

A. I was.

Q. Were you in bed?

628 A. Sound asleep.

Q. Were you awake when you left Natchez?

A. No, sir; sound asleep.

Q. What time did you wake up after the collision?

A. The collision woke me up; that startled me—the collision.

Q. Where were you sleeping? Where was your room?

A. I was sleeping up in what they call the texas—the pilot's room.

Q. What did you do?

A. When I jumped up, I run up immediately into the pilot-house, as soon as I put on my clothes; it was a very cold night; I put on some clothes, and run immediately on into the pilot-house. My idea was that he had struck a bluff bar somewhere. I didn't know where we were. I knew he struck hard enough to do some damage, and I run up into the pilot-house before I looked out. The step bears from the texas, inside—you don't have to go on the roof—you can go from the inside of the texas to the pilot-house.

Q. When you got to the pilot-house, what was the condition of the two boats?

A. When I got into the pilot-house the Lee had just struck the bar. The first thing—I looked over—I saw that she had gone into the bar—struck the bar. I asked him, says I, "What is the matter?" He says, "We have had a collision." I looked around, and I saw the other boat.

Q. Where was the other boat at the time you saw her?

629 A. She was astern of us. We had gone over to the bar; she had gone over to the bar just below us.

Q. From the wharf-boat at Natchez, how far up the river can you see a descending boat?

A. You can see her two miles or more—two miles and a half, may be three, in daylight.

Q. At night, how far can you see her lights?

A. You can see her lights some distance. The question is, whether you can tell it was a steamboat or not, or what she was doing. The river makes a turn, looking from the wharf-boat up; and, you see, you might see lights and couldn't tell what it was; it might be on the bank; perhaps you see the skylight, and you know it was a steamboat coming.

Q. When you waked up, did you notice how the boat lay—the Lee?

A. It lay against a dry sand-bar; they had run her aground.

Q. How did that sand-bar bear from Brown's saw-mill, on the other side of the river?

A. I think we were nearly opposite—very near; may be a little below it; I am not positive about it; but very nearly opposite, I know; a little below Brown's mill, if anything.

Q. How long did you remain on board the boat?

A. After she sunk?

Q. Yes.

A. We were there—I forget—forty-eight—I reckon over forty-eight hours; I was there helping to raise her.

Q. And came down on her?

630 A. No, sir; they sent a little boat for us, and we reshipped what freight they had on deck; I took the boat on to Vicksburg.

Q. During the time you were there, did you observe your position pretty closely?

A. I think so.

Q. Are you familiar with the localities there?

A. I ought to be; I have been a pilot for forty odd years.

Q. One of the witnesses in this case has stated, who was on board the Potomac, that when he first discovered the lights on the Lee she was running the bar side; that afterwards she came out from the bar and got nearly square across the river. From the place at which the Lee lay from the wharf-boat, can you state whether that was practicable without stopping her engines?

A. I don't know about that; the Lee must have been steering awful bad to run off the bar and right back again, because she couldn't have got back again from where she lay.

Q. The question I want to get at is this, is there room enough for the Lee to start out from the wharf-boat at Natchez, make the crossing and straighten up, begin to run the shape of the bar on the Louisiana side, and get back so as to be nearly square across the river, about opposite Brown's saw-mill, without stopping her engine?

A. I suppose she might do it; it is hardly possible, though the Lee is a very long steamboat, and would handle hardly that quick.

Q. What distance would the Lee have had to run from the time of leaving the wharf-boat until she got up to Brown's saw-mill, to be opposite Brown's saw-mill?

631 A. Well, I reckon it is about a mile.

Q. You think it is about a mile?

A. Yes, that way; but I can't tell exactly. I suppose pretty near a mile. I don't reckon it is quite that far. No, it isn't that far.

Q. It isn't over a mile?

A. Not over a mile; it isn't that far, I don't think.

Q. If she left the wharf-boat and went over to the Louisiana side and straightened up, and shaped the bar, how far would she have to run before she straightened up on the Louisiana side?

A. Well, a boat like the Lee would run, I suppose, a half to three-quarters of a mile; a boat like the Lee, you know, starting away from any place, you can't cross the river anything like square with her at all; you hold her up the river and make a long leg across. If there was nothing in the way, she couldn't get over to the bar much short of Brown's mill; may be a little below it. It would be over three-quarters of a mile—a boat like her—if there's nothing in the way; you don't go to the bar, you go near to the bar; you go right in the middle of the river—right in the channel. If you go within fifty or sixty yards of a flat sand-bar with the Lee she would go away with you; you can't hold her there at all.

Q. (by proctor for claimants, Mr. CAMPBELL). Run off?

A. You can't hold her to shoal water, therefore you never go to shoal water if you can help it; they always, if there's nothing in the way,

632 run the channel at that stage of water. There's danger in getting near the bar, because, if you do get near the bar with the Lee, she would certainly leave with you.

Q. Do you know anything about these mud lumps on the Mississippi side?

A. There's lumps there, but they ain't mud.

Q. What are they?

A. They are as hard as rock; they are a sort of soap-stone.

Q. One of the witnesses calls them marl?

A. I have been on them, and measured them; they have been there, I have known them, for forty-five years.

Q. In leaving the wharf-boat at Natchez, is a boat obliged to stand out to avoid those lumps?

A. Yes; in the ordinary stage of water—low water—it takes extremely low water to dry them.

Q. How far do you have to stand out; how near would you consider it safe to run the Lee to the Natchez shore at that stage of water?

A. After she got up to those lumps she would have to be a hundred and fifty to two hundred yards from the Natchez shore, after she got up to the lumps.

Q. Where do those lumps begin, and how far up do they go?

A. They commence immediately below Brown's mill; they run up to the old cotton press. I believe they continue for nearly half a mile—three-quarters to half a mile.

Q. Where is that cotton press?

A. It is about half a mile above Brown's mill.

633 Q. It is something near a mile and a half above Natchez?

A. About a mile; a little over a mile, may be.

Q. I mean above the wharf-boat?

A. I mean above the wharf-boat; it is not above the corporation at all.

Q. One of the witnesses in this case stated, that when the Potomac was about eight hundred yards off from the Lee she stopped her engines and commenced backing on his starboard engine, and kept backing on his starboard engine until the collision occurred. Tell me what would be the effect of a boat coming down the river at that place, stopping at a distance of seven or eight hundred yards, and backing her starboard engine?

A. All the time?

Q. Yes.

A. She would have rounded clean to; her stern towards the Lee.

Q. Her head would have been up-stream?

A. By that time; yes, sir. You see, when she commenced backing on the starboard wheel, that would have throwed her head towards the bar, and her stern towards the Lee.

Q. Forced her head towards the bar on the Louisiana side?

A. Yes, sir; the Louisiana side. Backing on the starboard wheel?

Q. Yes, sir. At a distance of eight hundred yards?

A. Yes. I suppose she would have backed clean around; head up stream, by that time.

634 Q. If, when these boats were eight hundred yards apart, the starboard engine of the Potomac was backed, what position must the Lee have been in for the bow of the Potomac to have hit the Lee on her larboard side?

A. Made the hole she did?

Q. Yes, sir.

A. Naturally impossible; it is an impossibility. The boat must have had headway on her to have made the hole she did. In twenty minutes after they struck I run up in the pilot-house, and immediately when I

found the boat was on the bar, safe, I run back and got on the forecastle, and put my head down into the hold of the boat. The water was just coming in like a cataract; and the mate was down there. I asked the mate what the damage was; he said she was nearly full already.

Q. Did you examine the wound that the Lee received pretty soon after it was received?

A. I never did examine it thoroughly until she was repaired; put on the dock here.

Q. You did make an examination of the wound?

A. I went down with the inspectors.

(Proctor for claimants, Mr. Campbell, objects to further examination of this witness, on cross-examination by proctor for libellant, Mr. Marr, as to the wound received by the Lee, unless, as to that, the witness be made a witness for libellant; whereupon Mr. Marr, proctor for libellant, agrees that as to that, that portion of his testimony, the witness shall be made the witness of libellant.)

635 Q. From the examination which you made of that wound, can you say whether or not that wound could have been given otherwise than by a boat in motion?

A. No, sir; it could not; it is impossible.

Q. How, at that stage of water, did a boat descend the river, say be ginning two miles and a half above Natchez and coming down—above the wharf-boat and coming down—how did they run boats there at that time?

A. Two miles above, they would run exactly down the Natchez shore. You want me to describe——

Q. Navigate a boat from two miles and a half above——

A. She would come down the river until she got within a mile, or a little over a mile—I don't know about distances—I am only guessing at that—to where those lumps commence forming; a descending boat has to leave there and go out to the bar to avoid those lumps; the channel of the river—the natural place for a boat going down stream—would be nearest the bar, because they have to leave, to avoid those lumps, and go out to this bar, which is on the Louisiana side; the channel goes out there, to avoid those lumps.

Q. How would the head of the boat be pointed? What would your jack-staff be holding on going down?

A. It would be holding a good deal to the right of the wharf-boat; when you first start over you would be holding right on the wharf-boat; but you naturally, as you got down to the lumps, would have to draw off, and you would be laying off to the right some distance from the wharf-boat.

636 Q. Getting down in the vicinity of Brown's saw-mill, Brown's house, a descending boat, how would her jack-staff be pointed?

A. About on the wharf-boat, that cuts off a little bend.

Q. Did you ever go out on the starboard side of a descending boat, from the texas, going down the river at night, and see whether you could see the lights at Natchez from the starboard side of the texas of the boat when you are in the vicinity of Brown's saw-mill?

A. I don't think you can, without you are right in the forward part of the texas; you couldn't on the starboard side.

Q. On the starboard side?

A. The starboar*k* side, that is, the bar side; you mean a descending boat?

Q. Yes, sir.

A. No, sir; you couldn't see the lights after you passed Brown's saw-mill.

Q. How far up the river would a boat be so held that from the starboard side of the texas you couldn't see the lights at Natchez?

A. How for above Natchez?

Q. Yes, sir.

A. Any time until she got to those lumps—you round them to get clear of them; after you make that turn, that shuts Natchez out, if you are on the starboard side of the texas.

Q. You couldn't see the lights at all?

A. No, sir; not unless you were forward or aft, one or the other.

637 Q. Suppose the down-stream boat, however, instead of turning off from that shore, would have turned herself right in toward the Natchez shore—you could see the lights?

A. Of course you could; that would bring you right towards the lights; and then, after she turned herself around, if you had been on the larboard side you couldn't see.

Q. What time did you give the wheel to Charlie Pierce that night?

A. I gave the wheel to Charlie Pierce about twenty-five miles below Natchez?

Q. What sort of a run was it from there to Natchez?

A. That stage of water—a dark night?

Q. Yes, sir.

A. It is one of the worst pieces on the river you can find to run with a big boat—it is narrow, crooked, and shoal.

Q. Could any but a skillful pilot have run the Lee up that night?

A. Never; and to say that ain't all; for Charlie Pierce was on a steamboat with me; we were on one boat before the war four years together, and there can't anybody beat him piloting a steamboat; he is as good as there is on the river.

Q. Was Charlie Pierce at the wheel when you went up, immediately after the collision occurred?

A. Certainly; he was the only man in the pilot-house, standing at the wheel.

Q. He was the only person you saw there?

A. The only person I saw there at that time—there might have been—I wouldn't have taken notice of it. You see, when I went aft——

Q. You found him in his place?

638 A. Yes, sir; at the wheel; and John Cannon out on the roof. I think, when I got there the boat had struck, head on, and they were working her broadside on the bar. I asked him, "What are you doing?" He says, "The boat is sinking;" and pointed back to this boat, and said, "We have had a collision."

Q. Shortly after this collision did you have any conversation with Charley Pierce about it?

A. Yes, sir; I suppose, half an hour; it may have been three-quarters of an hour—about half an hour.

Q. That is when everything was settled and quiet?

A. The boat was sunk; laying on the bottom.

Q. Did Charlie Pierce give you any account of that collision; and, if so, was it intelligible—what sort of an account did he give you of it? Don't tell me what he said.

A. We sat down together at the stove; I told you it was very cold night; we sat down, and he gave me a description of the whole collision; how it occurred, and all about it. I sat there and talked to him, I suppose, for an hour, may be.

Q. Can you state whether Charlie Pierce was drunk or sober at that time?

A. I don't think he possibly could have been drunk when he was talking to me; I don't think it was possible.

Q. Have you known him for a long time?

A. I have known him ever since he was a little boy; he learned the river with me.

639 Q. Do you think if Charlie Pierce was out of sorts that night from liquor you would have perceived it?

A. I should think so. I can tell for myself if a man is drunk from his talk. If he was in liquor I didn't see it.

Q. I ask you whether you found him mentally in such a condition that he could give you an intelligible and detailed account of the collision?

A. I have just stated that he did give me a detailed account—how he left the wharf-boat, how he went, how the collision occurred. Certainly if he had been drunk he got sober before he was talking with me.

Redirect-examination:

Q. What time did you give the wheel to Pierce that night?

A. At supper. About seven o'clock, I suppose.

Q. How long did the boat lay at Natchez?

A. I can't tell you; it must have laid there a good while. I recollect she had a very big freight for Natchez; but I was asleep when she landed and asleep when she left. I gave him the wheel at seven o'clock. When the boat sunk, or a few minutes afterwards, it was twelve o'clock. So she must have laid there a good while. I don't know anything about it; never asked.

Q. Don't you know that there was somebody else in the pilot-house before this collision took place and at the time it took place?

A. I think he had a steersman in the pilot-house—a boy was steering. I don't recollect. You see, Charlie Pierce was only temporarily on
640 the boat. My partner had had a steersman. I think he was on the boat. I am pretty certain he was; and in the pilot-house with him, probably.

Q. Did you ever hear Charlie Pierce say that that steersman had hold of the wheel?

A. I never did.

Q. You spoke of the Lee's running off. Suppose she had run off from that bar opposite Natchez, what effect would it have on her course? Which way would she have come?

A. That would change her towards the Natchez shore.

Q. Sheer her head off towards the Natchez shore?

A. Yes, sir.

Q. She would take what is commonly called a sheer?

A. Yes, sir.

Q. That would drive her quartering across the river?

A. Yes, sir; naturally.

Q. How long after this collision occurred was it that you had this conversation with Charlie Pierce which you said was connected?

A. It was immediately afterwards. It might have been three-quarters of an hour. It was after everything had been settled and the boat sunk. He came down after everything was settled; he came down out of the pilot-house; I can't tell you exactly.

Q. You don't know whether he had been drinking or not?

A. No, sir; I don't know. When I gave him the wheel at seven o'clock——

641 Q. I am not talking about that.

A. I was going to tell you that I went to bed immediately and never got up until the collision occurred.

Q. From his manner, you don't know whether he had been drunk?

A. I don't think he had. I didn't think about that at the time. Now, I don't think he could have been drunk.

Q. Don't your experience teach you that sometimes accidents of that kind have a tendency to sober a man very suddenly?

A. Yes, sir; I should think so.

Q. Might not Pierce have been intoxicated just before that collision took place, and been apparently very sober in three-quarters of an hour afterwards?

A. Yes, he might. I should think so.

Recross-examination:

Q. When you first went into the pilot-house after the collision, how long did you stay there?

A. Very few minutes. I was in there about two or three minutes.

Q. Did you have any talk with Pierce then?

A. When I run into the pilot-house I asked him, "What is the matter? What has happened?" He said, "We have had a collision," pointing back to this boat, "and," he says, "the boat is sinking."

Q. Did you notice anything singular or out of the way in his manner at that time?

A. I did not. He talked as rational as ever a man did in the world to me.

642 Q. Who was this partner of yours that you spoke of?

A. His name was Stout. He went over the lake for some purpose or another; had been off some time. He is a married man. He had been my partner, and was absent. Roberts had been steering for Pierce.

Q. (by proctor for claimants, Mr. CAMPBELL). Cannon admits that he was in the pilot-house at the time.

A. I think he was; I am not certain. He wasn't there when I got there.

(Signed) J. J. ASHBURY.

Sworn to and subscribed before me at the city of New Orleans this 14th day of March, 1873.

ALFRED INGRAHAM,
Com'r of the United States.

BURDETT PARIS, sworn for claimants, says:

Q. How long have you been a pilot?

A. Since '35, down here.

Q. In what trade principally?

A. Memphis, St. Louis, Red River, Vicksburg.

Q. You are familiar with the way the river is run between Natchez and Vicksburg?

A. Yes, sir.

Q. Do you know the stage of the water about December 20th, 1870?

A. No, sir; I don't recollect. I know it was not high, nor it was not dead low.

643 Q. How would you steer your boat—suppose you were on the

Lee, leaving the wharf-boat at Natchez, and ascending the river —how would you hold?

A. We always have but one way to go there. We don't run the shore—right the shore—on account of those lumps. We stand her out from a hundred and fifty to two hundred yards; go up about the middle, in smooth water.

Q. You hold her over towards the bar?

A. Generally customary in leaving the wharf-boat to drop out from the bluff; drop over gradually towards the bar, where we can hold them steady. If I was on the wharf-boat and saw——

Q. And saw a boat coming down, say, two miles off?

A. If I can't get over to the bar in plenty of time to straighten her I wouldn't attempt to get over. I would stay where I was.

Q. Suppose you were just pulled out from the wharf-boat—just leaving the wharf-boat, and should see a boat two miles off—how would you hold your boat then?

A. I would be quartering over.

Q. Quartering over towards the bar?

A. I should think I would have plenty of time to get over there with safety.

Q. That would be your proper course?

A. It is generally customary to drop out from the bluff.

Q. What effect would it have had on the Lee to run her close to that bar in ascending?

A. She wouldn't stay there. She would go back across the river if you got too close to it.

Q. She would take a sheer on you?

644 A. Yes. She is a very heavy boat; pretty good load to her.

Q. How near could you run to that bar in an ordinary stage of water?

A. The bar down there has been pretty bluff; you can come within fifty or sixty yards of it.

Q. Closer than that?

A. You wouldn't go that close with her. You would go just about the middle, betwixt the bluffs and the bar. You don't attempt to run the bar with a boat like that, with that stage of water, because she would go with you.

Cross-examination:

Q. How far out does that bar extend? How far from shore, at that stage of water—from the Louisiana shore—would you get water deep enough to run the Lee safely?

A. From the Louisiana shore?

Q. Yes.

A. The bar is dry two-thirds of the way out in the river.

Q. How does that bar make out? Does it deepen out pretty rapidly? How does it go after you get to where there is water?

A. When the river gets down the bar gets day. It becomes pretty bluff—the edge of it.

Q. You think the proper course for a boat ascending there is very near the middle of the river?

A. Right the middle of the river. We run it up just about the same as a boat coming down, with safety.

Q. Very near in the same course?

645 A. If we are over there in the bar, holding right up the middle, and see a boat coming down, we generally crowd the bar a little,

A. No, sir; I don't know. When I gave him the wheel at seven o'clock——

641 Q. I am not talking about that.

A. I was going to tell you that I went to bed immediately and never got up until the collision occurred.

Q. From his manner, you don't know whether he had been drunk?

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A. The bar is dry two-thirds of the way out in the river.

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Q. Very near in the same course?

645 A. If we are over there in the bar, holding right up the middle, and see a boat coming down, we generally crowd the bar a little,

and give her the bluff side. She has got to stand out from those lumps —holding on the wharf-boat.

Q. Have you been running up that way lately, or have you been in the Red River trade?

A. I have run there this summer on the Natchez and on the Lee Since that I have been in Red River.

Q. Do you know how a boat is navigated from, say two miles and a half above the wharf-boat at Natchez down to the wharf-boat at Natchez? How do you hold her?

A. When we first cross in above the mill up there first you come in pretty close; but coming down to Brown's mills we will be holding then about on the wharf-boat; but as we near the mills we pull out to the right of the wharf-boat to avoid those lumps.

Q. A line drawn from your pilot-house to the jack-staff would strike the Mississippi shore below the wharf-boat?

A. My jack-staff would be holding outside the bluff, below the wharf-boat, for a while.

Q. Could a man come out of the texas of a steamboat descending—held properly there—on the starboard side and see the lights at Natchez?

A. An ascending boat?

Q. A descending boat.

A. Not unless he would walk around front.

Q. I am speaking of standing there.

646 A. He couldn't go out on the starboard side and see the lights at Natchez.

Q. The starboard side would be to the Louisiana shore?

A. Yes, sir; to the Louisiana shore.

Q. Her head would be pointing a little below the wharf-boat, outside the wharf-boat.

A. Yes. He couldn't see the wharf-boat lights at the side door unless he would walk around on the boiler-deck. If he is out in front he can see.

Q. (by proctor for claimants, Mr. CAMPBELL). If he was on one side on the guard he could see?

A. If he was on one side on the guard; but if he was coming from the office or bar——

Q. I am speaking about the texas.

A. No, sir. He couldn't see without walking around first. If he would go out of the side door of the texas, on the starboard side, the texas would hide the lights from him.

Q. Then, if a man coming out of the texas of a descending boat, she being in her proper place, and navigated properly, a man coming out of the starboard side of the texas couldn't see the lights at Natchez at all?

A. No, sir. Not from the starboard side.

Q. Then if a man, putting himself in that position, did see the lights, which way would you say the boat was heading? There's a witness swears he did see the lights at Natchez.

A. She would be heading into the Mississippi side—the bluffs—into her quarter.

Q. One of the witnesses—perhaps more of them—at any rate
647 it has been stated in this case that the engines of the Potomac were stopped when she was at least eight hundred yards off from the Lee, and that her starboard engine was backed from that time until the collision occurred. Can you state how that would have put the Potomac?

A. It would have slewed her head over towards the Louisiana shore, by backing the starboard wheel. It would have throwed her stern to the bluff, and her head to the Louisiana shore.

Q. Would she have had time to swing around, with her head up stream, so as to have reversed her position?

A. Would she have had time to have rounded to?

Q. Yes.

A. Yes; she could have rounded to if she commenced far enough up—eight hundred yards; she had plenty of time.

Q. Every revolution of her wheel would have tended to throw her head towards the Louisiana shore?

A. Yes; throwed it to the starboard—pointed right over to the dry bar, her stern towards the bluffs.

Q. If she had stopped at eight hundred yards and backed either one of her engines, she would have swung around?

A. Yes; she could have swung around twice in that distance.

Q. If she had backed on her larboard engine, she would have got her head to the Mississippi shore?

A. Yes; whichever wheel you back on her, it slews you that way; the head goes with the wheel, where you back her.

648 Q. You didn't see the Lee while she was grounded or sunk on the bar?

A. No, sir; I didn't see her at all.

Redirect-examination:

Q. You said a while ago in your cross-examination, that when you approached those mud lumps your boat would be pointing to the wharf-boat at Natchez?

A. Yes, sir.

Q. Those mud lumps are how far up?

A. They are a mile.

Q. After you approached the mud lumps, your boat would——

A. Pull a little more to the right.

Q. How far down, how near to Natchez, would you be, when you couldn't stand alongside of the starboard side of the texas and see the lights at Natchez, pursuing the proper course for a descending boat—how near to Natchez would your boat be?

A. You wouldn't see the wharf-boat at all by standing on the starboard side of the texas.

Q. How near to Natchez would you be, pursuing the proper course, when the starboard side of the texas would hide the lights at Natchez?

A. I suppose a quarter of a mile above the wharf-boat, or half a mile.

Q. Brown's saw-mill is nearly a mile above the wharf-boat?

A. Yes, sir.

(Signed) BURDETT PARIS.

Sworn to and subscribed before me, at the city of New Orleans, the 14th day of March, 1873.

[SEAL.] ALFRED INGRAHAM,
Commissioner of the United States.

649 ROBERT H. SMITH, sworn for claimant, says:

Q. You are a pilot on the Mississippi River?

A. Yes, sir.

Q. Are you familiar with the way they run the river from Natchez to Vicksburg?

A. I ought to be; I am there twice a week.
Q. How long have you been engaged in that trade?
A. In the Vicksburg trade?
Q. Running from here up the Mississippi River?
A. I have been a pilot about twenty years, myself.
Q. Were you on either one of these boats at the time the collision occurred?
A. I was on the Natchez.
Q. The Lee or the Potomac?
A. No, sir.
Q. Then you don't know anything about the facts of the collision?
A. No, sir.
Q. How would you hold your boat in leaving the wharf-boat at Natchez, for the purpose of ascending the river?
A. While going up-stream we have got to watch at night.
Q. Say when the water was at the stage it was December, 1870?
A. There was about mark twain in the river when the collision occurred—I think so. We always have our marks to run such a place as that, where there's rocks and a bar; we always have land-marks.
650 My way of running is, from leaving the wharf-boat, to go out until I can hold on heading the hill, to the left.
Q. You mean toward the bar side?
A. Yes, sir; full out, until I can hold on the head of the hill; my stern will come on the wharf-boat—a little outside of the wharf-boat—below the wharf-boat.
Q. You hold on the left-hand shore going up?
A. I hold right along the shore.
Q. There's a bend there?
A. Yes; but we cut that bend to avoid those rocks; we hold up until we get about abreast of the lumps, and then we pull a little over to the left—a little above the mill. We run by the distance we get up the river.
Q. Suppose, just as you were leaving the wharf-boat at Natchez, you should see a steamboat a couple of miles—two miles off—descending—how would you run then?
A. Just the same; pull out and give her the bend shore, always—placed like that.
Q. Then, as I understand it, the usual way to run the river is to pull from the Natchez wharf-boat by a long crossing over towards the bar?
A. Yes; no long crossing about it; it is just the usual way we run; it is the customary way to run it.
Q. It is the customary way to run the river?
A. Yes, sir.
Q. You wouldn't hold up the Natchez side of the river?
A. No; we can't do it; I think, if the river is up you can't hold so much in there.
651 Q. Where two boats are meeting above Natchez that way, what would be the proper positions of the two boats—one going up the river and one coming down the river—say they met in the neighborhood of Brown's saw-mill, which side of the river should they be on respectively?
A. The ascending boat should be on the bar side.
Q. And the descending boat on the bend side?
A. Yes; that is the usual way. I have met a good many steamboats right there at the same place; never had *no* difficulty at all in all my life—plenty of room for steamboats to meet there.

Q. Would a boat be in her proper place, knowing that another boat was coming down the river two or three miles above Natchez, should she attempt in leaving the wharf-boat at Natchez to hold up along the Mississippi shore?

A. No, sir; let me understand you.

Q. You are at Natchez, just about leaving Natchez. You see a boat two or three miles up the river coming down——

A. I can't see a boat that distance.

Q. Say two miles up the river——

A. I might see a boat two miles.

Q. As far as you could see her?

A. Say two miles.

Q. Would you be pursuing your proper course were you to attempt to run up the Natchez shore instead of crossing over and running up the bar shore?

A. I wouldn't be going my proper course to go up the Natchez shore. No, it wouldn't.

Cross-examination:

652 Q. Leaving the wharf-boat, by the time you get out about opposite Brown's saw-mill, how far are you from the Natchez shore?

A. Well, I suppose we are from the Natchez shore when we are abreast of Brown's saw-mill at that stage of water; we have different distances, according to the stage of the river——

Q. I am speaking of at the time this thing happened.

A. I suppose it must have been, say four hundred yards—five hundred yards from the Natchez shore.

Q. That would bring you, then, about half the width of the river?

A. No; not counting the bar, from shore to shore, you wouldn't be out in the middle of the river; you wouldn't be more than a third of the way across.

Q. On which side would the biggest lay—the two-thirds?

A. The biggest part would be over where the bar is—the biggest part of the river—but that would be all dry.

Q. Then you would be nearer——

A. To the Natchez shore.

Q. Nearer to the Natchez shore?

A. Of course; because that is all the bar over there.

Q. And about four hundred yards from that shore?

A. Yes; three or four hundred yards.

Q. That would be the proper course for an ascending boat?

653 A. Yes, sir; or as near as we can up the channel of the river, when we are running with no boats about or anything; when we see a steamboat we pull off one side or the other to miss her; a boat like the Lee or the Natchez would have to run the channel all the time.

Q. Coming down the river, beginning two miles and a half above Natchez, how is a boat held until she begins to make her rounding into the wharf-boat at Natchez?

A. If we commence a mile above Natchez?

Q. From two miles above, how is a boat navigated?

A. We come down the Natchez shore until we get down to the head of the hill; then we commence going out, holding out gradually until we get on the lights of the wharf-boat; when we are holding on the lights of the wharf-boat, we are generally about abreast of Brown's residence—saw-mill. Just when we get down abreast of the mill I always hold to the right of the wharf-boat going down stream.

Q. When you are about abreast of Brown's saw-mill, suppose a man on a descending boat comes out upon the starboard side of the texas of his boat, what could he see of Natchez?

A. He could see the wharf-boat on the starboard side when he is abreast of the head of the hill; he could see it there before you change your position and pull out; but after you get abreast of the head of the hill and pull out, you can't see anything at all.

Q. You can't see anything of Natchez at all?

654 A. No, not from the starboard side of the texas when you are abreast of the head of the hill.

Q. When a boat is in the vicinity of Brown's saw-mill, coming down, if the lights of the Natchez wharf-boat opened out so they could be seen from the starboard side of the texas, the boat must be well in towards that shore?

A. She has got to be about at the head of the hill to see the lights on the wharf-boat; not after she gets any further down; it must be out abreast of the head of the hill.

Q. (by proctor for claimants, Mr. CAMPBELL). How far is the head of the hill from Natchez?

A. A little over a mile; say a mile and a half.

Q. It is above Brown's house?

A. Yes; half a mile above Brown's house.

Q. Brown's house is above Brown's saw-mill?

A. A little—a hundred yards, say. After you get down and make the turn—that is our breastmark—and make the turn at the head of the hill, you can't see the wharf-boat from the starboard side of the texas.

Q. When a boat is descending the river within eight hundred yards of another boat, and stops her engines, and commences backing on her starboard engine and continues backing, what would be the effect upon the position of the boat?

A. It depends altogether upon the length of time she is backing.

Q. I speak of continuing to back.

A. For how long?

Q. Until that eight hundred yards is passed over.

655 A. I can't answer that question, because, if she was backing—say she was backing two minutes—two minutes is a long time—if she is backing two minutes—it would have a tendency to pull her head clear around to the Louisiana shore. She would be square across the river in that length of time.

Q. Stopping the engines and backing one engine necessarily would turn a boat around?

A. Why, of course—turns it to the right.

Redirect-examination:

Q. How many revolutions would it take to turn her square around—half a dozen?

A. Yes; more than that for a loaded boat like she was. I suppose it would take fifteen or twenty revolutions.

Q. There's part of your testimony may be misunderstood by the judge. You say there's more of the river between the usual course of a boat opposite Brown's saw-mill on the larboard side going up than on the starboard side.

A. The width of the river is from shore to shore—don't count the bar. If you take the dry bar the way it was that stage, you would be closer to the bar than you would be to the shore; but, if you throw

the bar away and don't count the bar, you have two-thirds of the river to your left.

Q. I mean water only?

A. If you mean water only, you would be closer to the bar if you are going up stream.

Q. How near to the bar?

A. Say a hundred yards; that is as near as we can hold the Lee or the Natchez—a hundred yards from the dry bar.

656 Recross-examination:

Q. At that stage of the water, how far up the river does the dry bar begin?

A. It commences right there above Vidalia.

Q. It commences about opposite the court-house at Vidalia?

A. Yes; the flat part commences there.

Q. How far is it dry?

A. It is dry clear to Waverly plantation—what we call the point there—false point—the Waverly plantation.

Q. (by proctor for claimants, Mr. CAMPBELL). How far from Natchez?

A. I suppose three miles—hardly that.

Q. (by proctor for claimants, Mr. CAMPBELL). Two and a half, then.

A. Yes, sir. I never measured it.

Q. How far above Brown's house or Brown's saw-mill is it to a point on the Natchez shore that would be opposite that point on the Louisiana shore above Vidalia? If you wanted to get opposite on the Louisiana side above Vidalia—there's a point—the bar extends up to that point—how far would you go above Brown's saw-mill to reach a place on the Natchez shore that would be exactly in a straight line, as if opposite to it?

A. You want to go on the Louisiana shore?

Q. No; I want to ascertain this: Here is this point on the Louisiana side above Vidalia; there is Brown's saw-mill over there somewhere. How far would you have to go up the Mississippi shore
657 above Brown's saw-mill to get to a place opposite to this point on the Louisiana side?

A. Opposite the main point?

Q. Yes, sir.

A. You would have to go above Nevitt's.

Q. How far is that above Brown's?

A. It is where the old mill used to be.

Q. How far above Brown's is that?

A. A mile above Nevitt's; that is nearly three miles above Natchez, to get opposite the point—two miles, anyhow.

(Signed) R. H. SMITH.

Sworn to and subscribed before me, at the city of New Orleans, this 14th day of March, 1873.

[SEAL.] ALFRED INGRAHAM,
Com'r of the United States.

STATE OF LOUISIANA,
Parish of Orleans, City of New Orleans, ss:

JAMES OSCAR NIXON, Jr., being sworn, deposes and says:

I took down the testimony of J. J. Ashbury, Burdett Paris, and R. H. Smith, in stenographic notes, on the 14th day of March, 1873, at the office of Given Campbell, esq., No. 61 Camp street, in the city of New Orleans aforesaid, and that said stenographic notes contain strictly and

literally all the testimony of said J. J. Ashbury, Burdett Paris, and Robt. H. Smith, and the foregoing and annexed ninety-six pages contain the true and complete transcript and copy from said notes of said
658 testimony taken at the time and place hereinbefore stated.

J. O. NIXON, JR.

Sworn to and subscribed before me, at the city of New Orleans, this 31st day of March, 1873.

[SEAL.] ALFRED INGRAHAM,
Com'r of the United States.

UNITED STATES OF AMERICA,
State of Ohio, County of Hamilton, ss:

Be it remembered that on this 9th day of March, A. D. 1872, before me, E. T. Fries, a notary public within and for the State and county above named, duly appointed, qualified, and commissioned, and acting as such, and duly authorized under and by virtue of the laws of the United States to take depositions to be used in the courts of the United States, personally appeared at the office of Lincoln, Smith, Warnock & Stephens, in Cincinnatti, in the said county of Hamilton and State of Ohio, William S. Lynch, of sound mind and lawful age, a witness on behalf of the defendant in a certain cause pending in the district court of the United States for the district of Louisiana, wherein John W. Cannon is libellant, and The Steamboat Potomac and J. N. Shunk, master, are defendants; and the said WILLIAM S. LYNCH, being by me first carefully examined, cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, deposes and says:

659 First interrogatory. State your name, residence and occupation, and what was your occupation in the month of December, 1870?

Answer to first interrogatory. My name is William S. Lynch; I reside in Woodsfield, Ohio; am a mate of steamboat on the river; I was second mate on the steamer Potomac in December, 1870.

Second interrogatory. State how long you have been engaged on the river, and how long in the capacity of a mate.

Answer to second interrogatory. I have been steamboating thirty (30) years and upwards; I have been a mate upwards of twenty (20) years.

Third interrogatory. State whether or not you were on the steamboat Potomac on or about the 21st day of December, 1870, and what you know, if anything, of a collision between the steamboat Potomac and the R. E. Lee at the time, and state all the facts and circumstances of that collision, so far as they came under your observation.

Answer to third interrogatory. I was second mate on the Potomac; she was then on a trip from Cincinnati to New Orleans; at or about twelve o'clock she came into collision with the Robert E. Lee; I was in the deck-room when the collision took place; I was under the impression that we were coming to at the wharf-boat at Natchez, when
660 I heard the bells ring; they rang to stop her and to back her; she was backing on her starboard wheel, and had been backing when the collision took place; as soon as she struck, I got forward as soon as possible, went down the forward scuttle into her hold, and found her making water very freely; I came out of there, went up on the hurricane roof and got a tarpaulin and put over her head, covering the brake, so as to stop the pressure of the water; I am satisfied that she had backed enough to check her headway if the other engine was backing; I don't know whether the larboard engine was backing or not; I do not know that she was backing with her starboard wheel.

Fourth interrogatory. State whether or not you heard any whistles; if so, from what boat and when?

Answer to fourth interrogatory. I heard whistles from the Potomac blow; I was under the impression when they blew that they were blowing for Natchez; I had time to walk from along forward to aft in the deck-room—two or perhaps three minutes—before the stopping bell rang, and then immediately afterwards the backing bell rang.

Fifth interrogatory. How far did this take place above Natchez?

Answer to fifth interrogatory. A mile, or perhaps two miles.

Sixth interrogatory. State whether or not you heard any whistles besides the whistles from the Potomac.

661 Answer to sixth interrogatory. No, sir; I heard no other whistles; when I heard these I supposed the boat was blowing for Natchez.

Seventh interrogatory. After you heard the stopping bell and the backing bells, what did you next observe about the collision?

Answer to seventh interrogatory. Well, I felt a jar, and I was under the impression that she had run into the wharf-boat at Natchez; in a very short space of time they swung together; the wheel-house of the Lee was about abreast of the cylinders of the Potomac; the starboard side of the Potomac struck the larboard side of the Lee; I could not say which way they were pointed, because I went immediately down the forward scuttle into the hold, to see what damage had been done to the Potomac; when I came back the two boats were some distance apart.

Eighth interrogatory. Who was the engineer on watch?

Answer to eighth interrogatory. Squires was the engineer on watch; I don't know the name of the man at the starboard engine. He handled his engine very quick. Squires was at the larboard engine.

Ninth interrogatory. Describe the nature and extent of the injury done the Potomac.

Answer to ninth interrogatory. Her stem was badly fractured; she was broken back probably six or eight feet of her upper parts,
662 her guards, etc.; her jack-staff was carried away. The Potomac was in a sinking condition, resulting from this collision. She was in very great danger of sinking, and would have sunk had it not been for the tarpaulin and the other work we did.

Tenth interrogatory. Whose watch was it at the time of the collision?

Answer to tenth interrogatory. Captain Shunk was on watch, as captain, and I was on watch as second mate.

Eleventh interrogatory. When do you expect to leave this district?

Answer to eleventh interrogatory. I don't know. I am seeking a berth, and don't know at what moment I may leave, and don't know where I may go.

WM. S. LYNCH.

UNITED STATES OF AMERICA,
State of Ohio, County of Hamilton, ss:

I, E. T. Fries, a notary public within and for the county and State aforesaid, appointed, qualified, and commissioned, as stated in the caption hereof, do hereby certify that the reason for taking the foregoing deposition is, and the fact is, that the said witness resides more than one hundred miles from New Orleans, the place of trial of the cause, for and in which the deposition was taken, and that the same is necessary. I further certify that no notification was made out and served on the adverse party, or their attorney or agent, by me, of the time and
663 place of taking said deposition, and to be present and put inter-

rogatories, if he or they should think fit, because neither the said party, his attorney or agent, were, at the time of taking of said deposition, within one hundred miles of Cincinnati, the place where the said deposition was taken.

I further certify that on the 9th day of March, A. D. 1872, at the office of Lincoln, Smith, Warnock & Stephens, in Cincinnati, in the said county and State, I was attended by the said William S. Lynch, he being of sound mind and lawful age, and the said witness was, previous to the commencement of his deposition, carefully examined and cautioned, and solemnly sworn to testify the truth, the whole truth and nothing but the truth, and the deposition hereinbefore appearing, was by me reduced to writing, in the presence of the said witness, and was read over by me to the said witness, and thereafter subscribed by the said witness in my presence. I further certify that I am not of counsel, or attorney, or relative of either of the parties to the cause, or in any manner interested in the event of the said cause. All of which is here certified as to the reason for taking said deposition, and the manner in which it is taken.

In testimony whereof, I have hereunto set my hand and official seal.

[SEAL.] E. T. FRIES,
Notary Public, Hamilton County, Ohio.

UNITED STATES OF AMERICA,
State of Ohio, Hamilton County, ss:

Be it remembered that on this 29th day of March, A. D. 1872,
664 before me, R. S. Fulton, a United States commissioner within and for the southern district of Ohio, duly appointed, qualified, and commissioned, and acting as such, and duly authorized under and by virtue of the laws of the United States to take depositions to be used in the courts of the United States, personally appeared at the law office of Lincoln, Smith, Warnock & Stephens, N. W. corner of Third and Walnut streets, in Cincinnati, Ohio, James G. Hughes, of sound mind and lawful age, witness on behalf of the steamboat Potomac, and J. N. Shunk, master, in a certain cause pending in the United States district court in and for the district and State of Louisiana, wherein Jno. W. Cannon is libellant and steamer Potomac is respondent; and the said James G. Hughes being by me first solemnly sworn to testify the truth, the whole truth and nothing but the truth, in relation to the said cause, deposes as follows, to wit:

Examination-in-chief:

Questions by FAYETTE SMITH, Esq., of counsel for steamboat Potomac, and J. N. Shunk, master:

First interrogatory. State your name, age, residence, and occupation.

Answer to first interrogatory. James G. Hughes is my name; I am fifty years of age; I reside in Ludlow, Kentucky; I am a stock man, and have been engaged in shipping stock south several years. Ludlow, Kentucky, is near Cincinnati.

Second interrogatory. State whether or not you were on the steamboat Potomac on a trip from Cincinnati to New Orleans
665 when she had a collision with the steamboat R. E. Lee, about the night of the 21st December, 1870, about a mile above Natchez, Mississippi. If so, what were you doing there at that time?

Answer to second interrogatory. I was. I was on the boat at the time. I had shipped some stock on her from Cincinnati for New Or-

leans. I had 30 odd head of horses and mules on her. Just before the collision, I was sitting up at the fire, and was doing so for the purpose of being up until after we passed Natchez, to watch my stock. I always sit up myself, or have a man sit up, to watch the stock. I generally sit up the first half of the night, and have my man sit up the rest of the night. I always have some one on watch.

Third interrogatory. Describe what you saw and heard of the collision.

Answer to third interrogatory. I think it was about a mile above Natchez. I was sitting at the stove, and heard the Potomac's whistle blow. I then got up, went out forward, pulled the screen aside on the larboard side, and looked out. I saw a steamboat approaching, and could see the lights of the town below. The steamboat was approaching us from the Louisiana side of the river. We were on the Mississippi side, in deep water, for we were loaded down to the guards. We were pointing down the river, shaping the bend, near the Mississippi shore. We were in our place, and the Lee was out of her place. I have steamboated several years, and know that the Potomac was in
666 the usual place of the descending boat. When I went out, and looked out of the screen, I could see the Mississippi shore all along; we were close to shore, in very deep water.

Fourth interrogatory. You say, that after you went out, after hearing the whistle, and looked out between the screens, you saw the Lee; what did you next hear?

Answer to fourth interrogatory. I saw a boat coming—I didn't know that it was the Lee then—and I then went back and sat down by the stove. Soon after I heard the Potomac whistle; I heard her backing bells, and right away after that they came together; and I went out the hall door and climbed up on the hurricane roof.

Fifth interrogatory. State whether or not you heard any whistle from the other boat before the collision.

Answer to fifth interrogatory. I heard no whistle from the other boat at all.

Sixth interrogatory. When you first heard the whistles from the Potomac, for what purpose did you understand the whistles to have been blown?

Answer to sixth interrogatory. I thought she had been blowing to land.

Seventh interrogatory. State, if you know, how many revolutions the Potomac backed before the collision.

Answer to seventh interrogatory. I don't know.

667 Eighth interrogatory. About how far was it from the stove, where you were sitting, to the screen, where you looked out?

Answer to eighth interrogatory. About twenty feet.

Ninth interrogatory. What sort of a night was it?

Answer to ninth interrogatory. A pleasant night—good fair night to run.

Tenth interrogatory. State if after the collision, the next morning, you heard any conversation between Captain Cannon, of the R. E. Lee, and Captain Shunk, of the Potomac, with reference to the collision; and, if so, state anything you heard Captain Cannon say with reference to it.

Answer to tenth interrogatory. Yes, sir; Captain Cannon came aboard the Potomac the next morning. I heard him say that he was in bed, asleep, at the time the collision took place; that his pilot told him that before the collision he supposed the Potomac was the McGill, going

up, as the McGill had just left the wharf-boat at Natchez just before the Lee did. He said it was an accident, and he didn't know who was to blame; but his pilot told him that he thought it was the McGill, going up. He was pleasant about it, and found no fault with our boat whatever.

Eleventh interrogatory. State the extent of your travelling up and down the river.

668 Answer to eleventh interrogatory. Since 1852 I have averaged three or four trips down the river every year, except during the war.

JAMES G. HUGHES.

UNITED STATES OF AMERICA,
State of Ohio, County of Hamilton, ss:

I, R. S. Fulton, a United States commissioner within and for the county and State and district aforesaid, appointed, qualified, and commissioned as stated in the caption hereof, do hereby certify that the reason for taking the foregoing deposition is, and the fact is, that the said witness, whose deposition appears above, resides more than one hundred miles from New Orleans, La., the place of trial of said cause, and that the same is necessary.

I further certify that no notification was served on the adverse party, or his attorney or agent, of the time and place of taking the said deposition, and to be present and put interrogatories if he should think fit, because neither the said party, his agent nor attorney, was at the time of taking the said deposition within one hundred miles of Cincinnati, Ohio, the place of taking of the said deposition.

I further certify that on the 28th day of March, A. D. 1872, at the law office of Lincoln, Smith, Warnock & Stephens, in the said city of Cincinnati, Ohio, I was attended by James G. Hughes, who was by me previous to the commencement of his said deposition, solemnly sworn to testify the truth, the whole truth, and nothing but the truth,

669 and that the deposition hereinbefore appearing was reduced to writing by myself, in the presence of the said witness; was by me carefully read over to the said witness, and thereafter subscribed by the said witness in my presence.

I further certify that I am not of counsel, attorney, or relative of either party, or otherwise interested in the event of the said cause.

All of which is here certified as to the reason for taking said deposition, and the manner in which it was taken.

In testimony whereof witness my hand and seal, given at Cincinnati, Ohio, this 29th day of March, 1872.

R. S. FULTON, [SEAL.]
U. S. Com'r, S. D. O.

True copies of the originals.
Clerk's office U. S. dist. court of La., July 21, 1877.
Attest:
[SEAL.] K. LOEW, *D'y Clk.*

670 UNITED STATES OF AMERICA:

Circuit court of the United States in & for the 5th circuit and district of Louisiana.

JOHN W. CANNON
vs.
STEAMER POTOMAC & ALS. } No. 8290.

(For libel, &c., &c., see the foregoing printed record.)

Transcript.—Filed November 5th, 1877.

The President of the United States of America to the marshal of the district of Louisiana, or to his lawful deputy, greeting:

You are hereby commanded forthwith to seize and into your possession take the steamboat Potomac, her boats, tackle, apparel, &c., now libelled by John W. Cannon for the cause set forth in the libel now pending in district court of the United States for the district of Louisiana; that you do cite and admonish the owner or owners,
671 and all and every other person or persons having or pretending to have any right, title, or interest in or to the same, to be and appear before a district court of the United States for the district aforesaid, to be holden at the city of New Orleans on or before the third Monday from the service hereof, to show cause, if any they have or can, why the said steamboat should not be condemned and sold, agreeably to the prayer of libellant; and how you have executed this warrant, that you make return according to law.

Witness, the honorable Edw. H. Durell, judge of the said court, at New Orleans, this 5' day of Dec'r, 1871, and the 96th year of the Independence of the United States.

[SEAL.] J. A. CHARBONNET,
D'y Clerk.

(Endorsed): United States district court, No. 9760. Jno. W. Cannon. St'b't Potomac. Ad. warrant.

Marshal's return.

672 Received Dec'r 5th, 1871, by the U. S. marshal, and on the 6th day of Dec'r, 1871, seized and took into my possession the st'r Potomac, and appointed keeper thereon.

Released Dec'r 9, '71.

CH'S R. STEELE,
D'y Marshal.

Published monition in the National Republican.

C. R. STEELE,
D'y Marshal.

Order fixing release bond of the Potomac at $25,000, *Dec'r* 7, 1871.

JNO. W. CANNON
vs.
ST'R POTOMAC. } No. 9760.

An application having been made to the court on behalf of claimants

by Mr. G. Campbell, proctor, to fix the bond in this suit, the court, after having read the libel, fixes the bond for the release of the steamboat at $25,000.

New Orl's, Dec'r 7, 1871.

(Sig.) E. H. DURELL, *Judge.*

673 *Claim.—Filed Dec'r* 9, 1871.

JNO. W. CANNON, *vs.* ST'R POTOMAC. } 9760, U. S. dist' c't.

Now comes James W. Batchelor, the master of the steamboat Potomac, who, being duly sworn, on his oath, says that he is the lawful bailee of said steamboat, and authorized by the owners hereinafter named to put in a claim for himself and them in this cause. That he is an owner of said boat, and that his interest therein is $\frac{1}{16}$; that Jno. Fink, Henry A. Jones, Theodore Cook, Wash. Hunchell, and Barker Pierce, and for the 4 last-named parties reside at Cincinnati, Ohio, and J. Fink, at Wheeling, West Virginia, are his co-owners, all of whom reside out of this State.

Wherefore he prays that said steamboat be released from seizure herein, and be restored to him, as master and bailee as aforesaid, on giving bond and security in accordance with the order of the hon. judge of this court.

JAS. W. BATCHELOR.

674 S'orn to & subscribed before me this 9th Dec'ber, 1871.

K. LOEW, *U. S. C.*

UNITED STATES OF AMERICA,
District of Louisiana:

Know all men by these presents that we, James W. Batchelor, claimant and part owner of the steamer Potomac, as principal, and W. G. Coyle, John A. Wayne, John Wilson, and R. H. Noble, as sureties, are held and firmly bound unto John W. Cannon, libellant, in the sum of twenty-five thousand dollars, lawful money of the United States of America, for the payment whereof to the said Jno. W. Cannon, heirs, executors, administrators, or assigns, we jointly and severally bind ourselves, our heirs, executors, and administrators, firmly by these presents.

Witness our respective names and seals hereunto affixed by us, at New Orleans, this 9th day of Dec'r, one thousand eight hundred and seventy-one.

Whereas an admiralty warrant was lately issued out of the hon-
675 orable the district court of the United States of America for the district of Louisiana, at the suit of J. W. Cannon vs. Steamer Potomac, her tackle, apparel, and furniture, and numbered 9760 on the docket of the said court, commanding the marshal to seize and take into his possession the said steamer, which has been seized accordingly, but has been released from the said seizure and delivered to J. W. Batchelor, the claimant and part owner thereof, by reason of the signing, sealing, and delivery of these presents, said claimant having obtained leave of court to bond said property, and filed a claim thereto, which is now of record in the clerk's office of this court:

Now the condition of the above obligation is such that, if the said claimant and sure' abide by all the orders, interlocutory or final, of the

court, and pay the libellants the amount awarded by the final decree rendered in the court to which the process is returnable, or in any appellate court, then the foregoing obligation is to be void; but otherwise shall remain in full force and virtue.

676

JAS. W. BATCHELOR. [SEAL.]
W. G. COYLE, $5,000. [SEAL.]
JNO. A. WAYNE, $10,000. [SEAL.]
JNO. WILSON, $5,000. [SEAL.]
R. H. NOBLE, $5,000. [SEAL.]

Signed, sealed, & delivered in the presence of—
K. LOEW,
D'y Clk.

John A. Wayne, one of the sureties on the within bond, beind duly sworn, says that he resides in this city, and is worth the sum of $10,000 over and above all his just debts and liabilities.

JNO. A. WAYNE.

Sworn to and subscribed before me this 9th day of Dec'r, A. D. 1871.
K. LOEW.
U. S. Commissioner.

JNO. W. CANNON
vs.
ST'R POTOMAC.

I will accept the bond offered and consent to the release of the Potomac if John A. Wayne justifies, subject, however, to the right, on the return of the boat to New Orleans, to object to the bond and to require a new bond and have the boat seized again if, on further inquiry, I ascertain that the bond now offered is not sufficient. On Wayne's justifying, the Potomac may be released and allowed to depart on her voyage.

677

N. O., Dec'r 9, 1871.

R. H. MARR,
For J. W. Cannon.

Release.—Dec'r 9, 1871.

J. W. CANNON
vs.
STEAMER POTOMAC & J. N. SHUNK, MASTER. } 9760.

The President of the U. S. of America to the marshal of the district of Louisiana, or his lawful deputy, greeting:

Whereas James W. Batchelor, master and part owner of said steamer, hath this day filed a claim thereto on behalf of himself and his co-owners, and which said claim is now of record in this office:

You are hereby authorized to release said steamer from seizure and her to restore to the possession and custody of said claimant, he having given bond conditioned as required by law, and otherwise complied with the rules of this court, and make return hereon of your doings in the premises.

678

Witness the Hon. E. H. Durell, judge of said court, at New Orleans, this 9th Dec'ber, A. D. 1871, and the 9th year of the Independence of the U. S.

K. LOEW, *D'y Clk.*

Rec'd Dec'r 9, '71, by the U. S. marshal. On the same day, month, and year released the within-named st'b't Potomac.

T. W. DE KLYNE, *D'y U. S. M'l.*

UNITED STATES OF AMERICA,
District of Louisiana:

Know all men by these presents that we, John W. Cannon, by R. H. Marr, his att'y, as principal, and W. G. Coyle and John Janney, as sureties, are held and firmly bound unto Rob't S. Semple, Jno. Fink, Jno. N. Shunk, late owners of the st'r Potomac, cross-libellants, in the sum of eight thousand dollars, the said sureties binding themselves even in the sum of $4,000 each, lawful money of the United States of America, for the payment whereof to the said cross-libellants, their heirs, executors, administrators, or assigns, we jointly and severally bind ourselves, our heirs, executors, and administrators firmly by these presents. Witness our respective names and seals hereunto affixed by us, at New Orleans, this 9th & 26' days of February, one thousand eight hundred and seventy-two.

679

Whereas in suit No. 9760, Jno. W. Cannon vs. St'b't Potomac, a cross-libel had lately been filed by the late owners of the st'r Potomac, in consequence of which the court made an order requiring the owners of the st'r R. E. Lee to give bond in the sum of eight thousand dollars, to respond in damages claimed by said steamer Potomac:

Now, the condition of the above obligation is such that if the said claimant and sure abide by all the orders, interlocutory or final, of the court, and pay the said libellants the amount awarded by the final decree rendered in the court to which the process is returnable, or in any appellate court, then the foregoing obligation is to be void; but otherwise shall remain in full force and virtue.

680

JNO. W. CANNON, [SEAL.]
By R. H. MARR, *his Att'y.*
W. G. COYLE for $4,000. [SEAL.]
J. JANNEY, $4,000. [SEAL.]

Signed, sealed & delivered in the presence of—

Wm. G. Coyle, surety on the within bond, being duly sworn, says that he resides in this city, and is worth the sum of $4,000 over and above all his just debts and liabilities.

W. G. COYLE.

Sworn to & subscribed before me this 9th day of Feb'y, A. D. 1872.

CH'S CLAIBORNE,
U. S. Commissioner.

J. Janney, one of the sureties on the within bond, being duly sworn, says that he resides in this city, & is worth the sum of $4,000 over and above all his just debts & liabilities.

J. JANNEY.

Sworn to & subscribed before me this 26' Feb'y, 1872.

CH'S CLAIBORNE,
U. S. Com'r.

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Submission.—June 6th, 1873.

JNO. W. CANNON
vs.
STEAMER POTOMAC. } 9760

By consent of proctors, the cause is submitted upon the pleadings and the evidence & briefs to be furnished within days.

Judgment & reference.—Feb'y 20th, 1874.

JNO. W. CANNON
vs. } 9760.
ST'R POTOMAC.

For reasons orally assigned, considering that in the collision between the steamer Robert E. Lee and the Potomac both vessels were at fault,

It is ordered, adjudged, and decreed that the damages suffered by the respective vessels, and the costs of suit herein incurred, be equally divided, and that it be referred to a commissioner, whom the court
682 will designate hereafter, to examine and report on the amount of such damage.

Order.—J. W. Gurley appointed, March 19, 1874.

JNO. W. CANNON
vs. } 9760.
ST'R POTOMAC.

Upon the suggestions of proctors for libellant and claimant, it is ordered by the court that this cause be referred to J. W. Gurley, esq., U. S. commissioner, with instructions to report thereon with all convenient speed.

Amended answer and cross-libel.—Filed Feb'y 25, 1876.

JNO. W. CANNON
vs. } 9760.
ST'R POTOMAC.

U. S. district court for the district and State of Louisiana. In admiralty.

To the honorable the judge of the district court of the U. S. in and for the district and State of Louisiana, holding at the city of New Orleans:

683 Now comes Robert S. Semple, John Fink, and John N. Shunk, the respondents, and by leave of court first had and obtained, file this by way of amendment to their former answer and cross-libel, and thereupon they do say and answer as follows:

1st. That so far as the 5th article of their answer and cross-libel is concerned, with regard only as to the amount of damages which respondents therein alleged that the steamboat Potomac sustained by reason of the collision therein set forth, respondents now say and articulate that the amount of damages is erroneously and inadequately set forth to have only been the sum of eight thousand dollars, whilst respondents should have stated the amount to be $13,517.19, and in addition to what is therein set forth, as to the manner in which said steamboat Potomac & respondents sustained damages, these respond-
684 ents specially aver and articulate that the said steamboat Potomac was strained so badly by reason of said collision that her butts and seams could not be got together as they were before said collision, and great injury was done to said steamboat Potomac; that she had to go in the dock at the port of New Orleans for repairs. Respondents were forced to lay out and defray large sums of money

in paying for said repairs, and other necessary expenses were incurred.

That the said steamboat was greatly detained from the time of the said collision until the said repairs were completed, and in the mean while respondents were deprived of the use of the said steamboat Potomac, had to keep officers and part of her crew, and feed them, and incurred expenses of various kinds during the detention of said steamboat Potomac, and the value of said boat was diminished by said collision; that the said damages and losses sustained by respondents amount to the sum $13,517.19, which was caused solely by the inattention, negligence and want of skill of the steamboat R. E. Lee and her officers and crew.

685 2. Respondents reiterate all and singular the matters set forth in the said claim and answer, and have made the foregoing amendment for the purpose of showing that the amount of damages and losses sustained by the respondents in the premises had not been sufficiently and adequately stated, that the error was made at a time when respondents were not fully aware of the great extent of the damage and losses, not having had the opportunity of fully ascertaining and, more specially, of stating them, and that the said error is now corrected, and real amount of the same is the sum of $13,717.19, as hereinbefore set forth.

Wherefore respondents pray leave of this hon. court to make the foregoing amendment, and in addition to the prayer contained in their claim and answer aforesaid, and pray that the said John W. Cannon be compelled to answer the matters aforesaid, and that the said steamboat R. E. Lee and the said John W. Cannon may be condemned to pay

686 to the said respondents the sum of $13,517.19, the said damages, interest, and costs, and that these respondents may have such other and further relief as they are entitled to receive.

J. AD. ROZIER,
Proctor.

U. S. OF AMERICA,
Southern Dist. of Ohio.

Robert S. Semple, being duly sworn, says that he is one of the claimants in the above case; that he has read the foregoing amendment to the answer and cross-libel and knows the contents thereof, and that the same is true to the best of his knowledge, information, and belief.

ROBERT S. SEMPLE,

Subscribed & sworn to this 18th day of February, 1876, before me.
[SEAL.] E. T. FRIES,
Notary Public.

Let this amended answer and cross-libel be filed, and let the libellant be notified thereof.
Feb' 25, 1876.

EDW. C. BILLINGS, *Judge.*

687 *Exception to amended answer and cross-libel.—Filed May 17, '76.*

JNO. W. CANNON, *vs.* STEAMER POTOMAC. } 9760.

John W. Cannon, libellant in the above-entitled cause, excepts to the amended answer and cross-libel herein filed and exhibited by Robert S.

Semple, Jno. Fink, and Jno. H. Shunk, and for cause of exception shows:

That a decree hath been entered in this cause, and the matter hath been referred to Jno. W. Gurley esq., commissioner, to assess and report the damages. That the said commissioner has taken testimony and is now engaged in taking testimony, that is to say, that the said matter is still before the commissioner for the taking of further proofs touching the damages, and that at this stage and condition of the cause no amendment or supplement to the answer and cross-libel is admissible or proper.

688 Wherefore, libellant prays judgment of the said amended answer and cross-libel, and prays that the same be disallowed and dismissed.

Nevertheless, should the said amended answer and cross-libel not be disallowed and dismissed, and in that event only, the said Jno. W. Cannon, for answer defensible to the same, alleges and articulately propounds as follows, to wit:

As to the matters in the first article of said amended answer and cross-libel propounded, libellant hath no knowledge and cannot answer, otherwise than by denying the same to be true, and calling for full proof of all the matters in said article propounded tending in any manner whatever to affect the rights and interests of libellant.

2. As to the matters in the 2d article of said amended answer and cross-libel propounded, libellant hath no knowledge and he cannot answer otherwise than by denying the same to be true, and calling for full proof of the matter in said article propounded tending in any

689 manner whatever to affect the rights and interests of libellant.

And for further and general answer to all the matters in the said amended answer & cross-libel propounded libellant doth allege and articulately propound—

That libellant doth verily believe, and doth so allege and propound, that all the matters in said amended answer and cross-libel propounded are untrue, and are therein untruly stated and propounded, and that the amount of damage stated and intimated in said amended answer and cross-libel is greatly exaggerated and overestimated.

Wherefore he prays, as he hath already prayed in his original libel, and in pleading subsequent to said libel by him already hereinbefore filed and pleaded.

R. H. MARR, *Proctor.*

R. H. Marr, being duly sworn, deposes and says that he is proctor for John W. Cannon, the libellant in the above-entitled cause;

690 that said Cannon is now absent from the State of Louisiana; that said Cannon has been in feeble health, dangerously ill most of the time, for more than a year past; that affiant has not been able to communicate with the said Cannon touching the said amended answer and cross-libel, and that affi*davit* doth verily, and to the best of his knowledge and belief, believe to be true all the statements and allegations in the foregoing answer contained.

R. H. MARR.

Sworn to & subscribed before me this 17th May, 1876.

J. A. CHARBONNET,
D'y Clerk.

Rule to show cause why the comm'r should not pass on the amended answer and cross-libel as though the same had been filed before the order of reference.—Filed 18' May, 1876.

JNO. W. CANNON
vs.
ST'R POTOMAC.

On motion of J. A. Rozier, of counsel for R. S. Semple, Jno. Fink, and J. H. Shunk, claimants and cross-libellants and defendants herein,
691 it is ordered, that the exception of J. W. Cannon, libellant, to the supplemental answer and cross-libel of the said movers be fixed for trial on Wednesday, the 24th inst., at 11 a. m.; and it is further ordered, that the said Cannon, libellant, do show cause, at the same time, why the Hon. J. W. Gurley, commissioner herein, should not be ordered to take the same under consideration and as part of the matter of reference, in the same manner as if the said *the said* supplemental answer and cross-libel had been filed and made a part of the pleadings before the date of the order of reference to him, and why he should not include in his report the consideration of the same, and why it shall not be made and considered as a part of the original reference.

Order rule absolute and exception overruled.—May 24th, 1876.

J. W. CANNON
vs.
ST'R POTOMAC. } No. 9760.

692 This cause came up on the exception of the libellant to the supplemental answer and cross-libel of the claimants, and the further matter set forth in the order of the 18th instant—R. H. Marr, for libellant; J. A. Rozier, for claimants and cross-libellants—when, after hearing argument, it is ordered that the exception to the supplemental answer and cross-libel be overruled, & that the matters and things alleged in said supplemental answer and cross-libel be considered by the commissioner and included in his report as if the same had been filed and made part of the original *of the original* order of reference.

Commissioner's report.—Filed April 14th, 1877.

To the Hon. E. C. Billings, judge of the district court of the U. S. for the district of Louisiana:

The undersigned, commissioner of the United States, to whom
693 the case of Jno. W. Cannon vs. Steamboat Potomac and J. N. Shunk, master, upon libel and cross-libel, being No. 9760 of the admiralty docket, was referred, with directions to ascertain and assess the damages suffered by the steamboats R. E. Lee and the Potomac, resulting from their collision, and to divide the total amount equally between them, presents herewith as his report a detailed statement of the damages suffered by the respective boats, and the division he has made thereof, with notes explanatory of his rulings and allowances and disallowances of the various claims pretended.

He returns herewith all the testimony and evidence which has been offered and used in evidence before him by either party.

Respectfully submitted.

J. W. GURLEY, *Comm'r.*

NEW ORLEANS, 13 *April*, 1877.

Damages to the Potomac (statement).

See note A.	Southern Dry-Dock for repairs, as per bill, $2,978.13	$2,778.13	
	Liberty-cap on jack-staff, $58; jack-staff, $55; brick-work, $12	125	00
	Welding steam-band, $85; repairing wagon, $15	100	
B.	Lumber for bulkhead, $100	40	
694 C.	Wages of crew while in dock, as per statement, 1,378.88	914.54	
D.	Subsistance of crew (for 21 days, $672)	448.00	
E.	Fuel while detained at Natchez & in dock	400.00	
F.	Charter of barge in tow of boat at time of collision, 21 days, @ 10	150	
G	Taking care of barge 21 days, @ $2 per day, $42	30	
H.	One half-day's detention of the boat at Natchez	200	
I.	21 days, charter of the boat, @ $100 a day, 2,100	1,500	
J.	two tarpaulins to stop leak	80	
	Protest at Natchez, $5; wharfage at Algiers, $5.	10	
	Small line, $1; telegraphing, $11.60	12	
	35lbs. cotton at Natchez $7; labor, $25.50	32	
	Brass nails		75
K.	Extra labor, discharging cargo	300	
L.	Watching cargo	100	
M.	Assorting cargo, extra labor	22.50	
N.	Coopering, extra labor	20	
	Steamer Mollie Able, freight bill from Natchez	66.50	
NOTE.—The above embraces all the items in the bill of 1872.			
	The following are additional claims in bill of 1874:		
O.	Permanent injury to the boat $2,000		
	Amount of damage to Potomac		
		$7,330.52	

Damages to st'r R. E. Lee (statement of.)

Note P.	Cost of repairs as per Exhibit A filed with deposition of Mossop	$12,237.29
" Q.	Loss of three trips in her established trade	7,173.48
	Total damages to Lee, am't	$19,411.27

695 *Damages to be divided between the two boats.*

Damages sustained by the Potomac			$7,330.52
" " " " Lee	$12,237.79		
" " " " Lee	7,173.48		$19,411.27
Total loss of the two boats			$26,741.79
The Lee pays half of her own loss			$9,705.63½
" " " " of the Potomac's loss			3,665.26
			$13,370.89½
" Lee pays ½ commr's fee (cash)			200

The Potomac pays ½ her own loss	3,665.26
and pays ½ of the Lee's loss thus:	
By amount of ins. co's transfer	7,429.51
" " by cash	2,276.12½
	$13,370.89½
Potomac pays ½ commr's fee, cash	200

Under the decree each boat is to pay one-half of costs of suit.

NOTES. POTOMAC.

A. $200 has been deducted from the amount of this bill, as being paid for repair of damage not caused by the collision. See deposition of the Capt. Shunk, p. 437, the report of the inspectors, p. 258.

B. One of the part owners of the Potomac in his deposition given 10 Feb'y, '72, R. S. Semple, prepared, as he states
696 from the books of that boat a statement marked Exhibit C, of the damages sustained by the boat from the collision, in in which he puts down the total amount at $10,379.45. Some two years and nine months later, viz, 24, Nov., 1874, he gives another deposition, to which he annexes another statement of damages, taken, as he swears, from the same books of the same boat, in which he makes the total damages $13,517.19; exceeding by $3,137.45 the am't claimed by his first statement. The items of the two accounts are generally the same, but the amounts charged for them are often different—sometimes larger, sometimes smaller. As Mr. Semple states that he has no personal knowledge of the matter, and as he swears in each instance that each account is taken from the books, it is impossible to account for the discrepancy.

The collision occurred in Dec'r, 1870; his first account is made some 14 months afterwards, 10th Feb'y, 1872, and his 2d acc't about 4 years afterwards. Nov. 1874, and some 15 months later the pleadings are amended and the amount stated in the last account is claimed.

697 The commissioner has been much embarrassed by the anamalous condition of the claims as presented by the two statements. The captain (Shunk), who was also a part owner, swears to the correctness of the first account (printed record, p. 438) and says that he once had the vouchers and that he knows the items to be correct, for he paid them himself; but the 2d one he says nothing, except "I think the bill now before me, marked A, R. S. Semple, shows correctly the cost of their wages and subsistance during this time (the crews.) (See his manuscript deposition, Dep. p. 8.) As to this item of lumber for bulkhead, it is charged in the first account @ $100 and in the last account made out by Semple @ $40. Captain Shunk also in his manuscript deposition, p. 5, among the cost of other articles names this as costing $40; that has heretofore been allowed as the true cost. This explanation of the position of the two statements of damage has been given here as they must be often referred to.

For the 1st acc't, see printed record, p. 444; that Semple
698 made it out from the books of the boat, see p. 498.

C. The collision occurred in the night of Dec'r 21st, 1870. In consequence of the accident the Potomac was 24 hours longer in reaching the city than she otherwise would have been. Printed record, p. 307, 319, 438. The Lee is chargeable with that time—one day. The Potomac reached the city on 23d Dec'r, in due pursuance of her voyage. She occupied one day in discharging cargo, but as she would have required that time for the purpose had no collision occurred, the Lee is not chargeable with it, particularly as she is charged with $300 for extra labor in hastening it.

The Potomac went into dock on 25 Dec'r; see Exhibit C for crew's wages—printed rec., p. 444. On that day the Lee became again chargeable for her detention, already owing her one day. The repairs to the Potomac were entirely completed on 5th January, 1871, and she was then on that day ready to be taken out of dock and proceed on her intended trip, being well repaired, tight, and in river-worthy condition. See report of marine inspectors under
699 whose supervision the repairs were made—record, p. 268. It is fair to assume that, at most, within two days after that date, viz, on the 7th Jan'y (for docks are too valuable to be idle), the Potomac was at her wharf and in as good a condition as she would have been in had she arrived there without accident and had just discharged her cargo. The Lee was then at the close of the 7th no longer responsible for her detention, for, in any event, the Potomac would have been compelled to remain until a return cargo was secured. The time with which the Lee is chargeable may be stated thus:

Detention at Natchez, 1 day; detention in dock (including the 2 days) fr' 25 Dec'r to 7 Jan'y, 14 days.—15. As this is a matter of much consequence to the claimants I add the statements of his own witness, from printed

Record, page 307—Jno. Davis. In dock about 2 weeks.
319—S. Squires, engineer. Does not state the time.
334—E. Y. Handlan, pilot. In dock 12 or 14 days.
353—W. J. Austhuz. About 2 weeks in dock.
375—W. J. Hughes. About 2 weeks in dock.
387—P. Holland, mate. 2 or 3 weeks; thinks 3 weeks in dock.
700 400—G. W. Molona, pilot. Don't know about the delay.
411—J. C. Martin, carpenter. In the neighborhood of 3 weeks in dock.
423—Jno. Fink, part owner. Delayed about 3 weeks in New Orl's.
438—Capt. Shunk. Delayed in New Orl's 21 days.
451—Lynch, 2d mate. Don't know how long in dock.
460—S. Woodson. Don't know how much delay.
471—J. Williamson. 2 days of being 3 weeks at Algiers.

The deposition of the above witnesses were taken in Sept., Oct'r, and Nov'b'r, 1872. In Nov'b'r, 1874, the deposition of Capt. Shunk was again taken. In that deposition (manuscript) he states that the Potomac was delayed about 21 days in all; p. 406. He further says she was in dock about 10 days; p. 10.

Apart from this testimony, which, it is submitted, sustains the conclusions of the commissioner, the report of the marine inspectors made at the time it bears date and in writing—record, page 238—is conclusive that, if there be in the time, it is in favor of the Potomac. Wages is therefore allowed for the time she is assumed to have been in dock, viz, 14 days. For the time she was delayed at Natchez there is in the bill a separate charge. In the bill made from the books of the boat in 1872 by R. S.
701 Semple, and sworn to by him and Capt, Shunk—rec., p. 444—the wages are stated to have been $1,378.88. The dock bill is dated 9th Jan'y, '71, and it certainly was not made out before the repairs were completed.

D. This is allowed at the rate claimed in the bill prepared by Mr. Semple—rec., p. 444, in 1872—for the 14 days that she was in dock, as stated in Note C.

E. Fuel, while detained at Natchez and while in dock. In the original bill made in 1872 by R. S. Semple, and, as he then states, taken from the books of the boat, this item is put down @ $400. No such charge is made by Mr. Semple from the same books in 1874. There is, however, a charge in it of $500 for detention of boat 14 hours at Natchez and 10 hours between there and New Orleans, which probably embraces this charge. The $400 is allowed.

F. Charter of barge in tow of the Potomac, at $10 per day for 21 days. This item is charged in Semple's bill made in 1872 @ $210, while in the one made by him from the
702 same books it is put down at $220. For reasons in Note C compensation is allowed at the rate claimed for 15 days only.

G. This item taking care of the barge 21 days is put down in the bill made by Semple from the books in 1872 @ $42. In the bill made by him in 1874 from the same books the charge is taking care of barge at Vicksburg, $66. The two are doubtless intended for the same; for reasons assigned in Note C, the charge is allowed for 15 days only.

H. Capt. Jno. Fink, a part owner of the boat, in his testitimony, p. 423, says that the running expenses of the boat in the lower Mississippi was $300 per day. In the bill of 1872 this item is charged thus. "One-half day detention at Natchez, $250;" there is no corresponding charge in the bill of 1874. It is presumed to have been there included in the gross charge of $500, referred to in Note C, for detention of boat 14 hours at Natchez and 10 hours between there and New Orl's; $400 have already been allowed partly in this account and for fuel while in dock. It it under the circumstances impossible to make a certain
703 and exact adjustment, as it is clear that the fuel used during that detention has already been allowed for, and her other running delay expenses between Natchez and New Orleans reduced by the allowance of the $400; thus leaving due to her $100, as claimed by her, and the cost of her fuel while laying in dock, the claim here made is reduced by $50.

I. 21 days' charter of boat at $100 per day. The Potomac

was owned by Capt. John Fink, Capt. John N. Shunk and R. S. Semple. See answer—rec., p. 5.

Somewhat over a year after the collision while all facts and circumstances which would tend to fix the charter value of their boat were fresh in their memories, and before any exigency of their case had developed itself to cast suspicion upon the perfect good faith and perfect fairness of their testimony, they thus testified under oath:

On the 10th Feb'y, 1872, R. S. Semple: $100 per day is a fair value. Rec., 496.

On 21st Oct., 1872, Capt. Jno. Fink: $100 is a fair charter
704 value. Rec., 423.

On 24th Oct. '72, Capt. Jno. N. Shunk: $100 is a fair charter value, rec. 438.

The bill of damages *is* prepared by Semple, and annexed to his deposition—rec. p. 444—and sworn to by him and also by Capt. Shunk, contains this charge: 21 days' charter of boat, @ $100 per day, $2,100.

The case progresses, and in November, 1874, some two years later than the date of the testimony referred to, the depositions of Capt. Shunk and Mr. Semple were again taken and on their own behalf.

Capt. Shunk then testified that the fair charter value of the Potomac was $200 per day, see manuscript dep., p. 9. and R. S. Semple then testified that the fair charter value of the Potomac was $200 per day, (see manuscript deposition *dep.* p. 18), and he annexes to his testimony a bill of damages in which that item figures at that rate. It is but just that these owners should be held to their first estimate, particularly as it was made under oath and at a time when they could more fairly consider and better estimate their loss.

705 They are allowed the amount as claimed, $100, and, for reasons assigned in Note C, it is limited to 15 days.

J. The amount claimed, in the bill of 1872 the correctness of which is sworn to by Capt. Shunk and Mr. Semple—rec., p. 444—is allowed, viz, $80.

K. The order of these items is taken from the bill of dam, ages made out by Mr. Semple, part owner of the Potomac, in Oct., 1872—rec. p. 449—as he swears in his deposition—rec. p. 498—from the books of the boat; and Capt. Shunk, another part owner and the master of the boat, testifies that he knows the bill to be correct, for he at one time had all the vouchers and paid them himself. Rec. p. 438.

In November, 1874, Mr. Semple makes out another bill of damages from the same books, and he frankly states that he has no personal knowledge of the matters, in which he puts down this same item at $455.35. See manuscript dep., p. 15, and exhibit attached.

706 Capt. Shunk's testimony was again taken at the same time, Nov. '74, on behalf of himself and his co-owners, and he also swears to the correctness of this last charge. I shall not attempt to account for such discrepancies in accounts taken at different times from the same books, nor for such difference in the testimony of the same witnesses.

The statements and bill made in 1872 is entitled to most credit.

L. Watching cargo is charged in Semple's bill of 1872 at $100, and in his bill of 1874 at $136.50; both charges were taken from the books of the boat, and the correctness of both are sworn to by Semple and Shunk. Most credit is given to their first statement.

M. This is charged in the bill of 1874 at $17.75, and in the bill of 1872 at $22.50, and both taken from the same books, as Semple states.

N. Coopering in the bill of 1872 is charged at $20, in the bill of '74 at $30, both taken by the same witness from the same books.

O. The owners of the Potomac claim that she suffered permanent damage which it was impossible to repair, and the amount of which had at different times been
707 differently estimated by them *at different times*, ranging from $2,000 to $3,000. The damages caused to the boat was repaired under the direction and supervision of the inspectors of the board of underwriters, and on the 5' Jan'y, 1871, when they were completed, the inspectors examined the work and certified that the boat was well repaired, tight, and in a riverworthy condition. Rec. p. 268. There can be no doubt that both boats were lessened in value by the effects of the collision, despite the repairs that were made. The estimate of damage suffered by the Lee as stated by Capt. Cannon—rec. p. 191—far exceeds that claimed by the owners of the Potomac. Such damage, however, is too indefinite and speculative in character to be determined with any tolerable degree of certainty. It is deemed fair and just to offset the permanent damage to the one boat against that to the other.

The Lee was undoubtedly the greater sufferer. She was sunk. The Potomac was delayed in consequence of her injuries. In the answer of the owners of the Po-
708 tomac and cross-libel, filed 11' Jan'y, 1872, somewhat more than a year after the accident, the entire damage sustained, is alleged to amount to $8,000. Still later, some 5 years and 2 months after, 25' Feb'y, 1876, an amendment is made to the answer and cross-libel, in which compensation is claimed for the permanent damage and amount total is estimated (the permanent included) at $13,517.19.

In February, '72, Mr. Semple states in his deposition—rec. p. 498—that he is not a practical boatman and cannot estimate the permanent damage. In his deposition in 1874—p. 15 and 16—he states that it is estimated at $2,000. In 1872 Capt. Shunk estimates that damage at not less than $3,000—rec. p. 438; whereas in 1874 he says the boat was permanently damaged to the extent of about $2,000. Dep. p. 4.

The Lee undoubtedly suffered as much or more than the Potomac in that respect, and it is approaching as near as possible to the equity of the case to offset the one against the other.

NOTES. LEE.

709 P. By referring to Exhibit C, annexed to the depositions of J. A. Townley—printed rec. p. 494—it will be seen that the insurance companies settled with the owner of the Lee for losses on the basis of $14,347 30
From this they deducted on special average charges new for old 2,961 23
& on general average charges 241 83

Leaving $11,144 28
Deducting the am't of risk carried by the insured himself 3,714 76

Leaves the balance actually paid $7,429 52

All right to which was subsequently transferred to the owners of the Potomac and by them plead in their amended answer and cross-libel—printed rec. p.18—in compensation pro tanto of any decree that might be given against them.

If we deduct from the amount which was assumed as the basis of that settlement $14,347 30
The item of charge which figures as wages & expenses while sunk, viz 2,050 00

We have a balance of $12,297 30

At the time of this settlement with the underwriters at Cincinnati, Capt. Cannon, of the Lee, had the bills with him (see dep. of Townley, rec. p. 490). This is corroborated by Mr. Mossop; he says that they were at one time in his possession and were taken by Cannon to Cincinnati—see his dep. p. 10—and he supposes were left there (p. 4.)

710

Now, if we take the bill of damages sworn to by Mr. Mossop, the clerk of the Lee, and annexed to his deposition as Exhibit A, taken 26 July, 1875, amounting to $16,106.74, and deduct therefrom

The wages and expense account 2,000
And the am't paid Hennessy, of the correctnes' of which he is doubtful, $1,868.95 ..... 3,868 95

We have left $12,237 79

Showing a difference of only $59.51 between the statement on which the insurance companies settled, with the vouchers before them, and the statement presented by Mr. Mossop, and sworn to as having been paid by him, and the vouchers for which were at the time in his possession. I have deducted the wages account for reasons to be hereafter stated, and also the Hennessy bill because of its uncertainty, and allowed the balance, viz, $12,237.79.

711

Q. The Lee at the time of the collision, and long before, besides being the mail boat, had a certain permanent and lucrative trade. So well was it secured and monopolized by herself and one or two other boats, that it was impossible for any outside boat to live in it. To this effect the testimony of the witnesses is positive and conclusive.

Her owner has thought proper to claim as part of his damage the loss of profits for three trips, during which time she was detained for repairs, while the owners of the Potomac have continued their claim to the charter value of their boat during the period of her detention.

Their counsel insist that no other measure of damage can be adopted, and that the claim of the Lee must be rejected, because not made on that basis.

In other words, if you prove the value to others of the use of your boat, the claim must be allowed, but if you only prove its value to yourself, the claim must be rejected.

Judging from the testimony, the profits which the Lee would have earned were certainly not so speculative, as
712 was the probability of affecting a charter of the Potomac. Counsel have argued that the Lee might not have lived to make the three trips, for the loss of which she claims compensation. That is true, and accident might have intervened to annul the charter party of the Potomac, if effected. But we must act on a different presumption—on the presumption that the boats would continue during the usual period of their lives, to subserve the purposes for which they were built. The collision occurred in Dec'r, 1870. The detailed trip statements filed with the deposition of Mr. Mossop, the clerk of the Lee, of 25 trips made by her in her regular trade during the season in which the collision occurred, shows net profits aggregating $59,994.16 for 6 and ½ months, commencing 29' Sept'r, 1870, and closing 6' April, 1871. From that amount it is proper to deduct the profits of the trip on which the accident occurred, and in consequence of which they were mere nominal, viz, $215.15, which leave $59,779.00 for the 25 trips, or an average net profit of $2,391.16 per trip.

713 The proof on this subject is not the mere speculations and conjectures of witnesses. The statements referred to are of actual results. The testimony of the witnesses of both libellants and claimants is concurrent that the trade in which the Lee was engaged was certain, permanent, and lucrative.

She is allowed the average net earnings of $2,391.16 for each of the 3 trips, viz, $7,173.48.

The wages account of $2,000, claimed by the Lee, is disallowed, because that is compensated in the allowance of net profits.

J. W. GURLEY,
Comm'r.

Testimony for libellant, taken before Commissioner Gurley, filed in court April 14th, 1877, as part of his report.

J. W. CANNON
vs. } 9760.
ST'R POTOMAC.

714 Testimony taken in the matter of damages on behalf of libellant before J. W. Gurley, U. S. commissioner, June 20, 1876; present, R. H. Marr for libell't, J. A. Rozier for claimants.

M. L. LAURANCE, sworn for libellants, says:

B' Mr. MARR:

Q. What is your occupation?

A. A marine reporter.

Q. For what?

A. The newspapers of New Orleans.

Q. How long have you been at that business in New Orleans?

A. With the exception of about 14 months, since 1865; 14 months of that time I was in Texas.

Q. Were you in that business in 1870 and 1871?

A. Yes, sir.

Q. As a marine reporter, what do you report?

A. The receipts and exports of the port of New Orleans.

Q. You have been the registrar of vessels and the points from which they arrived?

A. They were reported so as to be published daily. There is no list kept but what is on file in the newspapers.

Q. Have you any means of knowing, and can you state, what
715 steamboats arrived at the port of New Orleans from the Ohio and Mississippi River above Memphis from the 15' December, 1870, to the 17' Jan'y, 1871?

A. I have my own reports made to the New Orleans Picayune, that I made during that time, nothing else.

Q. Do you know these reports to be correct?

A. I do.

Q. Did you get the information yourself and make up these reports?

A. I did.

Q. How did you get the information? By going on board the boats?

A. At the time I took them?

Q. Yes.

A. Yes, sir; by going on board of each boat as they arrived here, or as soon as it was convenient for me to copy the manifest.

Q. Do your reports contain the names of the boats, the ports they come from, and the dates when they come?

A. Yes, sir.

Q. Have you prepared any statement showing these facts?

A. Yes, sir; I have it with me.

Q. State what that paper shows and what you know of its being correct.

716 A. My reports commence at Dec'r 23, 1870, and end Feb'y 17, '71.

(Mr. Marr offers the reports in evidence marked L. 1.)

Q. Can you tell from looking at that paper L. 1 whether the Potomac made her appearance here in the month of December, 1870, or on what date?

A. On the 25th of December.

Q. She arrived here on the 25th of December?

A. Yes, sir.

Q. When did she appear here again after that?

A. On the 16th February, 1871.

Q. How much time did it usually take a boat of the class of the Potomac, when there are no impediments to navigation, to make the voyage from New Orleans to Cincinnati and back again to New Orleans?

A. Very few of them make it within 3 or 4 weeks. There are a few

boats now that would make it in a shorter time, but they are running on schedule time.

Q. Do you know anything about the condition of the water and
717 the navigation of the Ohio and Mississippi Rivers above Cairo for the months of December, January and February, 1870 and 1871?

A. I am not positive, but I judge from looking at that report filed of the boats that there could not have been——

Q. In looking at this list L. 1, does it show the usual number of steamboats arriving at the port of New Orleans in the business season from Cincinnati and the Upper Mississippi?

A. I think so.

Q. You think it shows the usual number?

A. Yes, sir; judging from that time up to the present time there were more then than the past winter, because we have very dull (season) business. I don't think there was as much as several years previous to that.

Q. Then the business in the Cincinnati trade was very dull?

A. Yes, sir.

Q. Very little doing?

A. Very little doing for the last few years.

Q. But 1870 & 1871?

718 A. Well, there was a fair business with Cincinnati; what I call a fair business.

Q. I observe in that List L. 1 that there were several days when there was no boats at all coming here?

A. Yes, sir.

Q. Is that usual in the business season?

A. Yes, sir; for the last few years it is usual.

Q. But I am speaking of 1870 & 1871; you say the last few years?

A. I can only answer it in that way, that years previous we had a brisker business than in 1870 and 1871. It was a usual thing for boats not to come in for 3 or 4 days, and then for a pile of them to come in.

Q. Will you look at this List L. 1, and state how many days in January and how many in Februdry there were no boats arriving here from the Ohio and Mississippi Rivers?

A. There were 14 days in January that there were no boats from the upper rivers. No boats arrived here from above Memphis. One day in February, that is from the 1st to the 17th, when there were no
719 boats from the Ohio and Upper Mississippi Rivers.

Q. Can you state from that List L. 1, how many boats arrived here from Cincinnati during January, 1871?

A. Five from Cincinnati.

Q. Five boats from Cincinnati during the entire month of January?

A. Yes, sir.

Q. How many were there in February up to the 17th?

A. 8 in Febr'y up to the 17th.

Cross-examined by Mr. ROZIER:

Q. This List L. 1, that you furnished us with is a list that you drew from the files of the newspapers?

A. My own reports made to the Picayune, and taken from the files of the Picayune.

Q. You have no memoranda that you made of these boats or the times of their arrival?

A. I always considered the paper my memorandum. If there is any

mistake in the paper I always made the correction the next day in the marine column.

Q. You made these reports from information obtained from the boats themselves?

720 A. From reports I made to the papers I got from the files now, and if there was any mistake then it was my duty, attending to that department, to have corrected it.

Q. When you say that no boats arrived in January during 14 days, what are we to understand by that?

A. That there were no boats loaded and sailed from Cincinnati that came to New Orleans; that is, there were only these 14 days when there was no arrivals from Cincinnati.

Q. Is it not the same case now, since that time; yet you say there has been no greater number of arrivals than what you state in this memorandum?

A. I don't know that there was quite as many. I could not tell, because we did a very brisk business.

Q. But we are talking from the 23 Dec'r until this time; say from the 23 December, 1870, what has been the number of arrivals in the same time in December, January, and Feburary, 1870 and 1871?

721 A. I cannot say, for the simple reason that the Cincinnati trade goes by spirts; sometime we have a great deal of boats from Cincinnati, and sometimes not so much.

Q. What is the cause of it?

A. It depends upon the merchandize.

Q. It depends upon the source, the weather, and business in the West?

A. Yes, sir.

Q. Supply and demand?

A. Yes, sir; and the water in the river.

Attest:

J. W. GURLEY, *Com'r.*

List marked L. 1.

1870.

Dec'r	23.	Mohawk & barges	St. Louis.
"	24.	John Kyle	Cincinnati.
"	"	Warner & barges	Cairo.
"	"	Henry S. Turner	Louisville.
"	"	Majenta	Memphis.
"	25.	Potomac	Cincinnati.
"	26.	W. J. Lewis	St. Louis.
"	"	Edinburgh	Cincinnati.
"	"	Belle Vernon	"
"	27.	None.	
"	28.	"	
"	29.	Arkansas	Van Buren, Ark.
"	30.	John Kilgour	Louisville.
"	31.	Atlantic & barges	St. Louis.

1871.

Jan'y	1.	None.	
"	2.	"	
	"	3. Nick Longworth	Louisville.
722	"	" H'y C. Yeager	Pittsburg.

	"	" H'y Ames	St. Louis.
"	4.	Ch's Bodman	Cincinnati.
"	5.	Emperor	"
"	6.	None.	
"	7.	Dexter	Cairo.
"	8.	None.	
"	9.	Argosy & barges	Cincinnati.
"	"	Ozark	Memphis.
"	10.	None.	
"	11.	"	
"	12.	Belle Lee	Memphis.
"	13.	Susie Silver	Evansville.
"	14.	W. R. Arthur	Cairo.
"	"	Importer	"
"	"	Commonwealth	Fort Smith, Ark.
"	15.	Mary Alice & barges	St. Louis.
"	16.	Emilie & a barge	Cairo.
"	"	Hamilton	Arkansas River.
"	17.	None.	
"	18.	Bismark	Cairo.
"	19.	J. S. Dunham	Fort Smith, Ark.
"	20.	None.	
"	21.	Virginia	Cairo.
"	22.	Bansley's flat boats	Ohio River.
"	"	Picken's "	"
"	"	Graham's "	"
"	"	Spencer's "	"
"	"	Alexander's 2	"
"	"	Roberts' 2	"
"	23.	None.	
	1871. "	24. Carrie V. Koontz	Evansville.
723	Jan'y	24. Bee & barges	Cairo.
	"	" Mary C. Forsyth	"
"	25.	Belle Lee	Memphis.
"	"	Arkansas	Little Rock, Ark.
"	26.	None.	
"	27.	Northwestern	St. Louis.
"	28.	None.	
"	29.	Mollie Able	Cairo.
"	"	Kate Kinney	Evansville.
"	30.	Indiana	Louisville.
"	"	Tom Jasper	St. Louis.
"	"	City of Quincy	Louisville.
"	"	Seminole	Batesville, Ark.
"	31.	Rob't Mitchell	Cincinnati.
"	"	Mary Houston	Louisville.
"	"	Alaska & barges	Cincinnati.
"	"	May Lowry	Pittsburg.
"	"	Belle of Texas (new)	"
Feb'y	1.	Armadillo	Cincinnati.
"	"	Shannon	Louisville.
"	"	Clarksville	Arkansas River.
"	"	Liberty & barges	St. Louis.
"	2.	Henry Ames	Cairo.
"	"	Ironsides & barges	Pittsburg.
"	3.	Glencoe	"

"	"	Peytona & barges	Louisville.
"	"	Great Republic	Cairo.
"	4.	Grand Lake & barges	Pittsburg.
"	"	Dexter	Cairo.
"	5.	W. J. Lewis	St. Louis.
	"	" Mohawk & barges	Cairo.
724	"	" Wm. Cowan & 14 barges	Pittsburg.
	"	6. Jennie Howell	White River.
"	"	C. B. Church	Cincinnati.
"	"	Mollie Moore	Louisville.
"	"	Moses J. Wicks	St. Louis.
"	"	Judge Wheeler	Fort Smith.
"	7.	Jas. Howard	Louisville.
"	"	Nick Longworth	"
"	"	Continental	Cairo.
"	8.	Lookout	Madison, Ind.
"	"	Jno. A. Wood & 8 barges	Pittsburg.
"	"	Belle Lee	Memphis.
"	"	Pauline Carroll	St. Louis.
"	9.	Mollie Ebert	Cincinnati.
"	"	City of Alton	St. Louis.
"	"	Ch's Bodman	Louisville.
"	10.	Glasgow	St. Louis.
"	"	Hercules, 4 boats, 4 barges	Pittsburg.
"	"	Tigress, 7 " & 5 "	"
"	11.	Mollie Gratz	White River.
"	"	Importer	Fort Smith, Ark.
"	"	Lorena	Cincinnati.
"	"	Messenger	"
"	"	Alleghany Belle & barges	"
"	"	H. S. Turner	St. Louis.
"	"	Commonwealth	"
"	"	Atlantic & barges	"
"	12.	Imperial & barges	"
"	13.	J. S. Dunham	Fort Smith, Ark.
"	14.	Susie Silver	Louisville.
"	"	Viola Belle	White River.
	"	15. Richmond	St. Louis.
725	'71, Feb'y	16. Potomac	Cincinnati.
	"	" Belfast	"
"	17.	Virginia	Louisville.

Depositions taken, under commission, before E. T. Fries, a notary public of Hamilton County, Ohio, and referred to in comm'r's report.

JOHN W. CANNON }
vs.
ST'R POTOMAC. }

Interrogatories to be propounded to John C. Reno, R. M. Wade, Thos. Sherlock, Lewis Kates, George W. Neal, witnesses for claimant and defendant, said witnesses residing in the city of Cincinnati, State of Ohio.

1st. Where do you reside, and what is your occupation? If you say that you have been running on the river, state in what capacity you

have been employed on the river, and in what trade or trades you have been employed.

2. State whether or not you were acquainted with the steamboat Potomac in the month of December, 1870, and in the month of January, 1871?
726 If you say that you were, and if you can so, state in what trade she was then engaged, and between what ports or places.

3. Could the steamboat Potomac have been used or chartered, during the month of December, 1870, and the month of Jan'y, 1871? Of what use was said steamboat Potomac to her owner during the said months? If you say the said boat could have been chartered during the aforesaid months, if yea, for what price or consideration, or what charter-money could have been obtained for her per day, or otherwise, during the aforesaid months, and specially between the 15th day of Dec'r, 1870, and the 11th day of Jan'y, 1871, say some three weeks?

4. At what time was the Potomac built? What was her tonnage and her capacity? What kind of a boat was she?

J. AD. ROZIER, *Proctor.*

Reserving the benefit of all just and legal exceptions to the interrogatories-in-chief, and the answers which the witnesses may make to the same, libellant propounds the following cross-interrogatories:

727 1st. On what day in December, 1870, did the Potomac arrive at New Orleans?

2. On what day did the Potomac complete discharging her cargo at New Orleans, on that trip?

3. On what day did the Potomac go in the dock at New Orleans? How many days did she remain in the dock undergoing repairs?

4. What was the stage of water in the Ohio River and in the Mississippi, say, from 25 Dec'r, 1870, to 15 Jan'y, 1871?

5. Was not the weather very cold from 25th Dec., '70, to 15 Jan'y, '71? Was not the Ohio and the Mississippi, above Cairo, closed by ice during part of the months of Dec'r, '70, and Jan'y, '71?

6. How many boats arrived at Cincinnati from New Orleans between the 25 Dec'r, 1870, and the 15th Jan'y, 1871? Give the names of any boats that arrived at Cincinnati from New Orleans between the dates mentioned, and state dates of their arrival, respectively.

7. How many boats, and what boats, left Cincinnati for New Orleans between the 25th Dec'r, 1870, and the 15th Jan'y, 1871? State
728 dates of departure of each boat; and, if you can, the dates of their arrival, respectively, at New Orleans.

8. Was not navigation on the Ohio River suspended in the winter of 1870 and 1871, by ice? If so, state at what time, and how long, navigation was so suspended.

9. How long have you known the Potomac? On how many occasions has she been chartered? For what trades has she been chartered? During what periods was she chartered; that is, for what length of time? How much charter-money was paid for her?

10. Are you interested in this suit? If so, how, and to what extent?

R. H. MARR,
Proctor for Libellant.

Answers of Jno. C. Reno.

To 1st interrogatory he says: I reside at Cincinnati; my occupation is that of ship chandler and boat-store man; I have run on the river as

captain, clerk, and 2d clerk; I was on the river about 15 years altogether. I ran from Pittsburg to New Orleans, Cincinnati to New Orleans, Cincinnati to Nashville, Cincinnati to St. Louis, and Pitts-
729 burg to Nashville. I also made occasional trips on the Upper Mississippi. For the last 20 years I have been familiar with the use and value of boats on the Mississippi River and Ohio River.

In answer to the 2d interrogatory, the witness says: I was acquainted with the Potomac in the months of December, 1870, and Jan'y, 1871. In the month of December she took a trip from Cincinnati to New Orleans, and it was during that trip that she had the collision with the Lee near Natchez. She was engaged in the trade from Cincinnati to New Orleans, called the New Orleans trade.

In answer to the 3d interrogatory, the witness says: I should think she could have been used and chartered if we had offered her for charter; that is my judgment and belief about it. The boat was of no use during a part of those months after she was injured. If she had not been injured she would have been engaged in taking in her trip from
730 New Orleans & returning. I have already stated tha' I thought she could have been chartered during that time. I think $150 or $200 per day could have been obtained for her; $150 per day would have been a low price for her. The use of that boat to the owners or anybody else was worth over $200 per day. My answer covers that time from Dec. 25 till Jan'y 11, 1871. The boat was new at that time, having been built during the summer previous to that time, at a cost of about $70,000. She was a first-rate boat for business. Perhaps I had better say that during that summer, while a great many boats were laid up, she earned $100 a day charter-money running from Cincinnati to Louisville, but that was no criterion of her value, as she was not built for that trade.

In answer to the 4th interrogatory, the witness says: The Potomac was built during the summer of 1870. I didn't know her custom-house tonnage, but her capacity for carrying was in the neighborhood of 900 tons. She was one of the best kind of boats, so pronounced by
731 all judges who saw her. She was very light of draft for her carrying capacity.

Answers to cross-interrogatories.

To the 1st cross-interrogatory, the witness says: I can't say.

To 2d cross, he says: As to that I could say either.

To 3d cross, he says: I couldn't say further than that I know she was on the dock.

To 4th cross, he says: I do not recollect as to the Mississippi, but remember that there was not less than a seven-foot stage of water at that time on the Lower Ohio below Louisville.

To 5th cross, he says: I don't remember.

To 6th cross, he says: I could not state how many there were, nor give their names.

To the 7th cross, he says: I couldn't state as to that at all.
732 To the 8th cross, he says: It may have suspended for 2 or 3 days above Louisville or Cincinnati; I have no recollection of its being suspended below Louisville or Evansville. If it was suspended, I can't state as to the time. It is often the case that navigation is suspended between here and Louisville when it is not suspended below Louisville. Boats of that kind, when navigation is suspended above in that way, go below. The Potomac was well fitted for use in the

lower rivers, below Louisville. It would very seriously affect her charter value at that time of the year if she couldn't get up here. She was well fitted for business below.

To the 9th cross, he says: I have known the Potomac since her construction, in the summer of 1870. I only know of her being chartered but the once, to the mail company; that was from Cincinnati to St. Louis. My recollection is that it was between 30 and 40 days; $100 per day was received for her during that time. I was not an
733 owner in the boat, but had a very small interest in her profits; I could not make up the extent of it now; it was so small that it be hardly worth figuring.

JNO. C. RENO.

Deposition of Lewis Kates.

To 1st interrogatory-in-chief, he says: I reside at Cincinnati; occupation, captain of steamboat; I have been captain of steamboat for about 12 years; I have been on the river about 28 years, and have served in nearly all capacities, from cook up to captain. I have run from Cincinnati to Memphis, and from Cincinnati to New Orleans, for the last 20 years. I ran from Nashville and in the Arkansas River, and some on the Kentucky River.

To the 2d interrogatory, he says: I was acquainted with the Potomac at the time she was running from Cincinnati to New Orleans, or rather from Louisville to New Orleans. She started from Cincinnati to New Orleans, and after that she was to run from Louis-
734 ville to New Orleans, in connection with the Nick Longworth, of which I was captain. The Potomac was too long to run through the locks at Louisville.

To the 3 int'y, he says: The Potomac could have been used during those months, and I think she could have been chartered if they had wanted to charter her, as business was good. If she hadn't been in the docks during part of those months on account of injuries received in the collision with the Lee, she could have been used in running from Louisville, and I think she could have been chartered. I left Louisville on the Longworth some 10 days after the Potomac did on her first trip. I arrived at New Orleans and loaded and came away first before she did. She loaded after I did and came up. If the boat had been mine I would not have wanted to charter her at all at that time, as business was very good. I think if she had been chartered she would have been worth from $200 to $250 per day. I think that would have been her fair charter value at that time. I mean from the 25th of Dec'r till the 11th of January.

735 To the 4th int'y, he says: I don't know when the Potomac was built. I know she was nearly new at that time. I don't know what her tonnage and capacity was. She was a side-wheel boat, about 260 feet long. She was a good passenger and freight boat.

Answers to cross-interrogatories.

To the 1st cross, he says: I don't know on what day.

To the 2d cross, he says: I can't say.

To the 3d cross, he says: I don't know.

To the 4th cross, he says: I couldn't say as to the exact stage; there was a good boating stage, I know, at the time I came up.

To the 5th cross, he says: I don't know about the cold weather. I

don't think it was very cold, and the Ohio River was not closed when I came up and went back, and there was no ice on it.

736 To the 6th cross, he says: I don't know anything about that. I met the Potomac at the mouth of Green River, about 190 miles below Louisville, and I was going down on the Longworth. I don't know whether she went up to Cincinnati or not. During the time inquired of I was going to and coming from New Orleans, and therefore cannot tell what boats may have come up here; we met with no obstruction.

To the 7th cross, he says: I cannot state, because, as above testified, I was engaged running from and to New Orleans at the time mentioned.

To the 8th cross, he says: It was not suspended to Louisville. I don't know whether it was suspended above Louisville or not.

To the 9th cross, he says: I have known the Potomac ever since she was built. How many times she was chartered I can't say, nor for what periods of time, nor what was paid.

To the 10th cross, he says: No, sir. I am not interested in
737 this suit to any extent.

LEWIS KATES.

Deposition of George W. Neare.

To the 1st interrogatory-in-chief, he says: I reside at Cincinnati, Ohio. I am in the insurance business. I have run on the river from 1846 till 1865 as clerk and captain of steamboats. I ran on the Ohio and Mississippi Rivers, from Cincinnati to New Orleans principally, during the latter portion of the time.

To the 2d int'y, he says: I was acquainted with the Potomac at that time; she was running in the trade from here to New Orleans; that was her trade, provided there was water enough for her to get over the falls at Louisville; she was too long to get through the old locks there, and when there was not enough water for her to get over the falls she ran from Louisville to New Orleans or from the Lower Ohio to New Orleans.

To the 3d int'y, he says: She could have been used by her
738 owner; whether or not she could have been chartered I don't know. The charter value of a boat of that character at that season of the year, I should think, would be from $150 to $200 per day. She would have been worth more than that to her owners. A party chartering a boat works on a margin; he, of course, does not expect to pay as much for her as she would earn, or so much as she would be worth to the owners.

To 4th int'y he says: She was built in 1870; I think 1869 or 1870, I don't which. Her capacity was about 800 tons I think. I can't give her custom-house tonnage. It wouldn't be more than ⅔ of that probably. She was a side-wheel boat, about 265 or 270 feet long; a passenger & freight boat and a boat of good speed. She was a good passenger and freight boat. She was a good boat to use in the Lower Ohio and Mississippi trade, and well adapted for the New Orleans and Red River trade as far as Alexandria.

Answers to cross-interrogatories.

739 To the 1st cross-int'y, he says: I don't know.

To 2d cross he says: I don't know, sir.

To 3d cross he says: I don't know.
To 4th cross he says: I cannot state of my own knowledge.
To 5th cross he says: I can't state; I have no recollection about it.
To 6th cross he says: I don't know and cannot state.
To 7th cross he says: I cannot state; I do not know.
To 8th cross he says: I cannot state; I have no recollection now about it.
To 9th cross he says: I have known the Potomac ever since she was built. I don't know on how many occasions she has been chartered, nor in what trades, nor during what periods, nor for what length of time, nor how much charter money was paid.
To the 10th cross-int'y he says: I am not interested in this suit to any extent.

740 GEO. W. NEARE.

Deposition of Capt. J. S. Neal, taken, under commission, before E. T. Fries, notary public, referred to in commissioner's report.

JNO. W. CANNON
vs.
ST'R POTOMAC.

Interrogatories to be propounded to Capt. J. Stut Neal.

1. Where do you reside? What is your occupation? If you say you are, or have been, running on the rivers, please state in what capacity you have been employed on the river, and how long you have been so employed, and in what trade or trades.
2. Were you acquainted with the steamboat Magenta, a steamboat that was navigating the Mississippi River during the year 1870 & afterwards; and, if yea, state her carrying capacity, her size and tonnage, her cost, her speed, and a general description of the boat?
3. Do you know whether the said steamboat Magenta was ever chartered; and, if yea, to whom? If you say she was ever
741 chartered to Capt. J. W. Cannon, plaintiff and libellant, for what length of time, when and where, and for what trade or voyages; what was the consideration of the charter or charter-party, or its terms and conditions, and generally your knowledge as to this charter? Was the same entered into verbally or in writing? If in writing, can you annex the original, if you cannot state the reason? If you can furnish a copy do so.
4. Were you acquainted or are you acquainted with the st'b't R. E. Lee, a steamboat running on the Mississippi River to the port of New Orleans; if yea, were you acquainted with the size, capacity for carrying of the boat, the speed of the boat, and generally the condition and value of the boat during the year 1870 and afterwards? If yea, state what you know about these matters? What was the cost of the boat? How did she compare with the steamboat Magenta aforesaid? And state your opinion as to the two boats, compared as to their usefulness and value, and for what consideration the two boats could be char-
742 tered in 1870 and afterwards? Was not the Magenta as fine a boat as the R. E. Lee? State your opinion and knowledge in this matter.

J. AD. ROZIER,
Proctor for Claimants & Def'ts.

Agreed that a commission may issue addressed to E. T. Fries, notary public in and for the city of Cincinnati, in the State of Ohio, to authorize him to take the testimony of the witness and answer to the foregoing interrogatories.

Sept. 3, 1874.

J. AD. ROZIER,
Proctor for Claimant & Defendant.
R. H. MARR,
For Libellant.

Libellant, reserving the benefit of all just and legal exceptions to the foregoing interrogatories, specially excepting to the 3d interrogatory upon the ground that the written charter is the best and only evidence of its contents, and of the terms and conditions of the contract, nevertheless propounds the following:

Cross-interrogatories.

1st. Was the Magenta specially fitted and adapted for the cotton trade in 1870?

743 2. How many steamboats were chartered for the general trades between New Orleans and points above as high up as Cairo from and after the 21st day of December, 1870, up to and including the month of Feb'y, 1871? Give the name of any boat and all boats that were to your knowledge chartered for any trade between New Orleans and any point or points above on the Mississippi River up to and including Cairo, at the mouth of the Ohio.

3. What was the condition of the Ohio River as to low or high water from 25th December, 1870, to 1st Feb'y, 1871? When did the Ohio and Mississippi River above Cairo close with ice in 1870 and 1871, say Dec'r, '70, Jan'y & Feb'y, '71? How long did either or both rivers continue closed? State to what extent navigation on the Ohio and the Mississippi, or either river, was closed or interrupted by ice or by low water in Dec'r, 1870, Jan'y & Feb'y, 1871.

R. H. MARR,
For Libellant.

744 Answer of Capt. Neal to interrogatory 1st: I reside at Madison, Indiana; I am a steamboat captain; I have been running on the river 30 or 35 years; I was engineer for 11 years; since then I have been capt. and clerk, mostly captain. Most of my steamboating has been from Cincinnati and Louisville to New Orleans.

To 2d interrogatory, he says: I was acquainted with the steamboat Magenta, and was part owner of her in 1870. Her carrying capacity was about 4,200 bales of cotton. She was 286 f't long and 42 f't beam, tonnage about 1,200 tons. She cost, I suppose, about $125,000 when new. She was a very fast boat. She was inferior to none of the Mississippi River boats, unless, perhaps, the Natchez and Lee. She was the fastest boat of her time in the West. She was a good boat in all respects, of great power and fine outfit; a first-class passenger and freight boat in her time.

To int'y 3d, he says: She was selected by the owners of the
745 Lee to take the place of the Lee after the collision with the Potomac. Chartered by them through Capt. Jno. Smoker. She was chartered for one week, with the privilege of two, commencing on 31st December, 1870. She was chartered at New Orleans, for the New

Orleans and Vicksburg trade, to take the place of the Lee while she was undergoing repairs made necessary by her collision with the Potomac. We were to get $800 or $1,000 a week, according to my best recollection; one or the other of these two sums, I am not positive which. It was understood verbally, and a memorandum of contract drawn, but never signed. The reason that it was not signed was that the Magenta was burned on the 1st of January, on the day following, after having been in possession of the owners of the Lee one day.

To the 4th int'y, he says: I am and was acquainted with the steamboat R. E. Lee. I don't know her size; her capacity was about 5,000 bales of cotton. She was a fast boat, perhaps faster than the
746 Magenta. Her condition was always good. Her value I have no means of knowing, nor what she cost. The Lee was of greater capacity than the Magenta, but she cost more in proportion to the amount she would carry than the Magenta; that is, the Magenta would make more money carrying 4,200 bales than the Lee would carrying 530, as the expense of running the Lee was so much greater. I don't (think) suppose the Lee could have been chartered at all, as she was running in a regular trade; out of that trade no one would have wanted to charter her. In that trade she had the prestige, and her charter value in that trade was probably a little greater than that of the Magenta. The fair charter value of the Magenta in that trade at that time was about $1,000. The Lee was a newer boat than the Magenta, and had, perhaps, a little finer outfit.

To the 1st cross-int'y he says: She was.

To the 2d cross he says: I don't know of any but the Magenta.

747 To the 3d cross he says: To the best of my knowledge there was a medium stage of water in the Ohio at that time, a medium navigable stage. I know the steamboat Indiana left New Orleans about the 23d Dec'r, 1870, made a trip to Louisville, and returned in Jan'y, 1871. The navigation during the time named was not obstructed by the river being closed with ice. I mean that the river did not freeze over and navigation was not entirely closed, although boats were detained by heavy floating ice. I think between the third and the middle of January, 1871, a few days between those dates, neither river was entirely closed at that time, the time mentioned in the interrogatory. I don't think there was any detention or interruption to navigation by low water and none by ice, except during the 2d or 3d days above referred to.

J. S. NEAL.

Depositions of witnesses taken, under commission, before E. T. Fries, notary public, at Cincinnati, and referred to in the com'r's report.

JOHN W. CANNON
vs.
ST'R POTOMAC & ALS.

748 Interrogatories to be propounded to Capt. Jno. N. Shunk, who resides in the city of Cincinnati, State of Ohio; R. S. Semple, who resides in the city of Covington, in the State of Kentucky; Stamp J. Batchelor, who resides in the city of Pittsburg, in the State of Pennsylvania, and doing business in the city of Cincinnati; all of which witnesses on the part of the claimants and defendants, the Steamboat Potomac, will be found in the city of Cincinnati, in the State of Ohio.

1. Where do you reside? What is your occupation? If you say you are or have been running on the river, please state in what capacity you have been employed on the river, and how long you have been so employed, and in what trade or trades.

2. State whether or not you were acquainted with the steamboat Potomac in the month of Dec'r, 1870. If you say you were, and if you can do so, state in what trade she was engaged, between what ports and places, and if you know who were the officers of said steamboat
749 during the month of December, 1870.

3d. Do you know anything about the collision between the st'boat R. E. Lee and the st'boat Potomac, which occurred above and near Natchez, Mississippi, on the Mississippi River, on the night of the 21 of Dec'r, 1870? What hour was it? Was it above the hour of 12 o'clock? If you do, state whether you were on either of said boats; if so, upon which.

4. State whether or not the Potomac was injured by the collision. If you say she was, then describe accurately in what respects she was injured and in what manner she was damaged, what such damages were, and how they were incurred. If any repairs were necessary or made upon her, required by this accident, then describe what repairs were made, and state their cost and when and where made. If you say the Potomac was damaged by said collision, state in what manner she was so damaged, and describe the extent of it, either as to the boat or her cargo

5th. Do you know whether the Potomac was compelled to pay
750 any sum of money by way of average? If you answer yes, then describe how that happened; and, if you can do so, state how much it was. State how long the Potomac was delayed, necessarily, by reason of the collision, if you know. Was the Potomac detained at the time and place of collision, or at the port of *of* Natchez, in the State of Mississippi? If yea, for what cause and during what length of time? Had she to reship any part of the cargo? If yea, was any loss caused thereby? During the time of detention, and during the time necessarily occupied for the making of repairs, what became of the officers and crew of the Potomac? If you say they remained and continued employed on board of the Potomac, what was the amount expended per day for the feeding of them and the amount of their wages? What was the amount of daily expenses of said boat from the time of the collision to the time the boat departed from New Orleans? What time elapsed between the collision and the arrival of the Potomac at the port of New Orleans? On what day did she arrive at and
751 *and* on what day did she depart on her up-trip from New Orleans? Was any loss sustained by the owners of the Potomac for the detention of the Potomac, caused by the said collision? What would the use of the boat have been worth to the owners of the Potomac during the time of the detention caused by the collision, and the time necessary to make repairs and fit her for business? Could the Potomac have been chartered during this period? If yea, for how much money? What loss, or losses, or damages were sustained by the claimants and defendants being deprived of the use of said boat? State the value and amount. What was the value of the Potomac at the time of said collison? What was her age? What was her condition at the time of said collision regarding the seaworthiness generally of the boat?

6. If you know anything further of advantage to the owners of the Potomac in this matter of the amount of loss, or losses, or damages sus-

tained by the Potomac by reason of said collision, state the same fully, as if thereunto specially interrogated.

J. AD. ROZIER;
752 *Proctor.*

For the taking of the depositions and answers to the two sets of interrogatories it is agreed that the clerk of the U. S. district court for the district and State of Louisiana, or any deputy clerk, shall issue a commission addressed to E. T. Fries, notary public in and for the city of Cincinnati, State of Ohio, or to any U. S. commissioner to take the acknowledgment of bail and affidavits and also to take the depositions of witnesses in civil causes.

R. H. MARR,
Proctor for Libellant.
J. AD. ROZIER,
Proctor for Claimants & Defendants.

NEW ORLEANS, *July 3d*, 1874.

Reserving the benefit of all just and legal exceptions to the foregoing interrogatories-in-chief, and to the answers which the witnesses may make to the same, libellant propounds the following cross-interrogatories:

1st. Where were you from the 23d Dec'r, 1870, to the 15th Jan'y, 1871?

2d. On what day after 23d Dec'r, 1870, did the Potomac com-
753 plete discharging her cargo at the port of New Orleans?

3. On what day after discharging her cargo did the Potomac go in the dock for repairs? How long did she remain in the dock for repairs?

4. What boats arrived at Cincinnati from New Orleans from the 25 Dec'r, 1870, to the 15 Jan'y, 1871? Give the names of the boats and the dates of their arrival, respectively.

5. What boats left Cincinnati for New Orleans from 25th Dec'r, 1870, to 15 Jan'y, 1871? Give the name of the boats and the dates of their departure from Cincinnati.

6. Was not navigation on the Ohio River and on the Mississippi, above Cario suspended in the winter of 1870–1871 by ice? If so, state when navigation was first suspended, how long it was suspended, and when it was resumed.

7. Give the date at which the Ohio was closed by ice in the winter of 1870–1871, the date at which the river opened again, and the entire period during which navigation was interrupted on the Ohio
754 River by ice or by low water, say from and after the 25 Dec'r, 1870, within the running months, and distinguish in your answer the periods of interruption of navigation, by ice and by low water, respectively.

9. On how many occasions has the Potomac been chartered? For what leng*ht* of time has she been chartered? What was paid for the charter?

10. For what trade is the Potomac adapted? What is her leng*ht*? What is her breadth of beam? What is her tonnage?

11. Are you interested in this suit? If so, how, and to what extent?

12. Was there a protest made by the master of the Potomac after the collision with the Lee in December, 1870? If so, before what notary?

Was there an average adjustment of the loss? If so, by whom? When and where was it made?

R. H. MARR,
Proctor for Libellant.

Answers of Jno. N. Shunk.

To the 1st interrogatory-in-chief he says: I reside at Cincin-
755 nati, Ohio. I am a steamboat captain. I have been on the river forty years altogether. I was engineer and captain the greater portion of the time. I have run from Pittsburgh to Cincinnati, St. Louis, and New Orleans. I was engineer 8 years and captain 20 years.

To the 2d int'y he says: I was acquainted with the Potomac at the time referred to. She left Cincinnati for New Orleans, and when the river was navigable for her she plied between Cincinnati, Louisville, and New Orleans; when not navigable, that is, when the river was so that she could not go over the falls at Louisville, she plied between Portland and New Orleans. She was too long to go through the locks at Louisville, that is, the old locks; the new locks were not completed at that time. I was captain of her at that time. Handlin and Maloney were the pilots, Hall and Squires were the engineers, Holland was first mate, and Lynch was second mate.

To 3d int'y he says: I was on the Potomac at the time of her
756 collision with the Lee; it occurred about midnight. I do know about the collision.

To the 4th int'y he says: She was injured by this collision. Her stem was knocked very nearly out of her, and she appeared to be strained very much through her seams and butts, loosening the caulking. We had to build a bulkhead at Natchez to keep her from sinking. We had to dock her at New Orleans; we had to put a new stem in her. The inspector of boats at New Orleans ordered her to be thoroughly recaulked all over. The repairs were made at New Orleans, and they cost $2,978.13; that was the amount of the dry-dock bill. That was all chargeable to the collision, except two stationary fenders and some other repairs done upon her. There were some floor timbers put in, her guards sheathed, and her bow sheathed with sheet-iron, not exceeding in all $200. The sheet-iron was not charged in the dock bill,
for that we furnished. This was extra work done while we were
757 waiting for the stem-band. It didn't delay us in the docks any, and could have been done without going in the docks. The boat was also permanently injured to the extent of about $2,000, which wasn't repaired and couldn't be repaired. The collision shook and weakened her, and loosened all her fastenings. The cabin forward was knocked over, and couldn't be got back without tearing it down, which was not done. She was delayed about 21 days in all by the collision. She was delayed 14 hours at Natchez, building a bulkhead, &c. She lost some 10 or 12 hours running down to New Orleans, as we did not think it safe to run under a full head of steam. We also had a barge chartered, at $10 a day, during the 21 days, which we had to pay for, and also had to pay $66 for taking charge of it during that time and towing it over the river, where it was laid up, and back to me when I came back. There was extra wharfage at New Orleans, $459.0. The collision required
us to have two wharfages instead of one. Extra labor and dis-
758 charging cargo at New Orleans, $455.35. Extra labor in assorting cargo, $177.5. There were sundry other items not included in the dock bill, as follows: Putting in glass, $8.25; liberty-cap on jack-staff,

$58; new jack-staff, $55; brick-work on the fire-bed, $12; welding stem-band, $85.50; repairs to wagon broken, $15; extra paid for watching cargo in New Orleans, $136.50. There was a protest at Natchez, $5; wharfage at Algiers, $5; small line to tie tarpaulin, $1; sundry telegrams to Cincinnati, $11.60; 35 pounds of cotton for bulkhead, $7; lumber for bulkhead, $40; extra labor at Natchez, $25.50; brass nails, 75 cents; Wm. Harris, paid for hire of tarpaulins to cover freight on wharf at New Orleans, $88.40. The freight being wet by the collision was detained on the wharf, and had to be protected by these tarpaulins. Lewis Johnson, rudder-irons, &c., $4.30. All this work was done at New Orleans, and was made necessary by the collision. The detention of the boat 14 hours at Natchez and 12 hours going down to New Orleans was an expense to the boat at least $500.

759 To 5th int'y, he says: I know the Potomac was required to pay a sum of money, by way of general average, which was occasioned by the collision. I don't know the amount she was required to pay. The Potomac was delayed necessarily by the collision about 21 days. She was detained at Natchez about 14 hours, building a bulkhead, pumping out water, &c. She did have to reship part of her cargo, at a cost of $66.50. The officers were all aboard of the boat during the time occupied in making the repairs. The mates and engineers were at work during that time assisting in making the repairs, and the other officers and men, except the pilots, were engaged either in cleaning out the boat or assisting either in cooking for the mess or otherwise in matters connected with the repairs. They were busy most of the time. At any rate we couldn't have discharged the men and got another crew without its costing more than to keep the

760 ones we had. There was very little chance of obtaining any Ohio River pilots to bring the boat up if these were discharged, and, as crews of up-river boats don't live in New Orleans, in order to have a crew when the boat went off the docks we were compelled to keep the crew we had. The boat also had to wait at Algiers some time before she could get on the dock, and the crew were employed during this time in taking care of the boat, pumping her out, &c., and when she got on the docks she had to be cleaned out, and the crew were at work nearly all the time (the pilots excepted) in assisting at something or other connected with the repairs. It was cheaper to board them on the boat than elsewhere, and it is usual for up-river boats, under such circumstances, to keep their crews and board them, and it is cheaper for a boat under such circumstances to keep her crew than to discharge them. It would be very difficult to pick up a crew at that season of the year, and would cause great delay and expense, and it is

761 therefore usual to keep them. The crew were paid their full wages during this time, and I think the bill now before me, marked Exhibit A, R. S. Semple, shows correctly the cost of their wages & subsistence during this time. I am unable to state the exact daily expense of the boat from the time of the collision till the time the boat departed from New Orleans, but it can be gathered from the bill referred to marked Exhibit A. The time that elapsed between the collision and the arrival of the Potomac at New Orleans was in the neighborhood of 3 days. I think she arrived at New Orleans on the 23d or 24th day of December, 1870. I won't be certain as to the exact date, and she left there on her up-trip about the middle of January, 1871. There was loss sustained by the owners of the Potomac for the detention caused by the collision. The use of the boat to the owners during the time of her detention would have been worth from $200 to $300 per day.

I believe the Potomac could have been chartered during this
762 period. There was parties enquiring about chartering her. I would not have wanted to charter her, as business was very good. We would have made $300 per day during that trip from the time she left Cincinnati until her return if it had not been for that collision, and as it was, after paying for all the repairs, the boat lost $1,000 on the trip. The owners did not want to charter the Potomac, and as to what amount of money could have been obtained I cannot say, but her fair charter value at that season of the year was $200 per day. The boat was a new boat, and a good boat for business from Cincinnati down, and a good boat for any of the lower river packet trade. Business was good and freights plenty and at good prices. The value of the Potomac at the time of the collision was $75,000. She was 5 months old at that time. She was in good seaworthy condition.

To the 6th int'y, he says: I don't know that there is anything
763 further that I can say, except that perhaps I had better state that the bills and receipts of the boat and papers of that charter have been lost, and every effort has been made to find them without success.

Answers to cross-interrogatories.

To the 1st cross-int'y, he says: During that time I was going to New Orleans and Algiers as master of the boat.

In answer to the second cross-interrogatory, he says: I think she was there 2 or 3 days discharging her cargo, but I can't recollect the exact date she completed it.

To the 3d cross-int'y, he says: She went over to the docks immediately after discharging; don't recollect exact date. She had to wait a day or more before she could get on the docks. She was on the docks about 10 days, as nearly as I can recollect.

To 4th cross-int'y, he says: I cannot say; I was not at Cincinnati during that time, but was at New Orleans.

764 To the 5th cross-int'y, he says: I cannot say.

To the 6th cross-int'y, he says: It was not suspended, to my knowledge.

To 7th cross-int'y, he says: I don't know that it was closed by ice, and therefore cannot give dates. I don't think it was closed from what I know and heard. Boats were coming and going during the greater part of the time.

To 9th cross-int'y, he says: I don't know; I know she ran in the mail trade between Cincinnati and Louisville some time during the summer, during low water.

To 10th cross-int'y, he says: The Potomac is adapted to almost any packet trade for general business. Her length, I think, is about 225 feet; somewheres between that and 300. I don't know her exact length. I believe her breadth of beam is 38 feet, 36 to 38; I couldn't be positive as to her measurement tonnage without referring to my papers. I think it was in the neighborhood of 400 tons. Her carrying capacity about 600 tons.

765 To 11th cross-int'y, he says: I have no interest whatever. I was an owner at the time 'ut sold out, and the owners who bought me out were to hold me harmless against this suit.

To 12th cross-int'y, he says: I entered protest at Natchez and renewed it at New Orleans. I don't know the name of the notary before whom it was made at Natchez. The one at New Orleans was made before

Edw'd Ivy, notary public. There was an average adjustment made by the same person (Edward Ivy) at New Orleans, immediately after the boat arrived there.

J. N. SHUNK.

Answers of R. S. Semple, taken, under same commission, before E. T. Fries not. pub., at Cincinnati, Ohio.

To 1st int'y-in-chief, he says: I reside at Covington, Ky; occupation, merchant; I was clerk on the river for one season, from Cincinnati to Memphis.

766 To 2d int'y, he says: I was acquainted with the steamboat Potomac in December, 1870. She left Cincinnati in December, 1870, to go below the falls to engage in the Louisville and New Orleans trade, intending to come to Cincinnati whenever the water on the falls would permit. She was too long for the old locks at Louisville, and the new ones not being completed, she could not come regularly to Cincinnati, and that season and the next she ran regularly from Louisville to New Orleans. She was officered by Jno. N. Shunk, master; Derinney, clerk; Holland, mate; Hall and Squires, engineers; Handlin and Malony, pilots; and Alford, steward.

To 3d int'y, he says: All I know about that is what I have heard; I was not on either of the boats at the time.

To 4th int'y, he says: The Potomac was injured by the collision with the Lee, as I have every reason to believe. I do not know in what respect she was injured or the manner in which she was damaged of

767 my own knowledge. I only know of the extent of the damages by the amounts that have been paid for repairs occasioned by said collision. I attach hereto a statement of the expenditures occasioned by said collision, taken by me from the regular books of the boat, marked Exhibit A, R. S. Semple; the books are now in our possession, but all the receipts of the boat and papers of that character have been lost. We have made diligent search for them, but have not succeeded in finding them. In Exhibit A there are some items that have been estimated and do not appear in the books in that form, viz: Detention of boat at Natchez and between Natchez and New Orleans, $500; subsistance of officers, $472.58; subsistance of men, $357; charter value of boat, 4,200; permanent injury to boat, $2,000. All other items are taken from the books of the boat and have been paid.

To 5th int'y, he says: The steamboat Potomac was compelled

768 to pay on a general average $889.11, on account of the insurance on the hull; $51.82 on acc't of freight list. The general average was rendered necessary, I suppose, by the temporary repairs occasioned by the collision, unloading and reloading boat, unloading at Natchez, &c., but I only know this from hearsay. She was detained for some cause 21 days, and I have every reason to believe that it was for repairs made necessary by the collision. From the best of my information, she was detained on her down-trip 24 hours by reason of the collision. I know she had to reship part of her cargo, for the reason that she paid a freight bill to the steamer Mollie Able, from Natchez to New Orleans, amounting to $66.50. The officers and crew of the Potomac were retained on the boat under wages, for the reason that it would have been difficult to have obtained another crew, the boat being a long ways from home and from the place w'ere crews in her trade reside, and for the reason that

769 it is the custom to retain crews under the circumstances in which she was placed, and the travelling expenses of the crew home

and return would have been more than it would cost to keep them during that time. The cost of subsistence was $1.50 per day for the officers and $1.00 per day for the men, as per Exhibit A, which I believe to be a fair estimate of the cost of feeding. The amount of wages paid was $1,549.26. I do not know what time elapsed between the collision and the arrival of the boat at New Orleans, nor of the day of her arrival there, but understand it was the 24th day of December. She left New Orleans on the 16th day of January, 1871, as I have reason to believe from a dispatch received from New Orleans the day after she left. The owners of the Potomac did sustain a loss on account of the collision to the amount claimed in Exhibit A. She would have been worth to her owners $300 during that time. I think she could have been chartered, as a party in New Orleans wanted to charter her
770 for the New Orleans and Red River trade, as I was informed at the time by Capt. Shunk. We refused to charter her to any one, as we had use for her ourselves. A fair charter value for her during that time would have been $200 per day. We lost the use of the boat during that time, and she would have cleared $300 per day on that trip. The steamboat Potomac cost $65,000. She was 4 months old at the time of collision, and a good boat in every respect.

To 6th int'y he says: I believe I have stated all that occurs to me now as being of importance.

To 1st cross-int'y he says: I was in Cincinnati at that time.

To 2d cross-int'y he says: I do not know.

To the 3d cross-int'y he says: I do not know of my own knowledge.

To the 4th cross-int'y he says: I don't know; cannot recollect.

771 To 5th cross-int'y he says: I cannot answer, and don't see what this or the previous question has to do with it, as it was not expected that the Potomac should run to Cincinnati except during flood stage, and the river was too low at the time mentioned for her to come over the falls.

To 6th cross-int'y he says: I do not think that the navigation of the Ohio River above Cairo was interrupted during the time mentioned so that the Potomac would have been prevented from going to Louisville. There were 3 or 4 days of extremely cold weather in Jan'y, when the river below Louisville was filled with floating ice, but as the Potomac was well ironed it would not have prevented her coming to Louisville, and at any rate she would have reached Louisville on that trip before the ice was formed had it not been for the collision, and she would have been lying at Louisville taking on her load during these 3 or 4 cold days.

772 To 7th cross-int'y he says: I have answered the question as fully as I could in the preceding answer. I cannot state as to the exact dates. I think navigation was suspended above Louisville for a time, but not positive it was not below. There was a gorge near Patriot which suspended navigation for a time between here and Louisville.

To 9th cross-int'y he says: She was chartered to the Louisville and Cincinnati Mail Line Company during low water, when the boat could not have been used anywhere else, for $100 per day. It was no criterion of the value of the boat, as it was a time when most of the boats of her class were lying idle for want of water and business; she was chartered for about 45 days.

To 10th cross-int'y he says: The Potomac was adapted to the Cincinnati and Memphis trade, and the Cincinnati, Louisville, & New Or-

773 leans trade. She was 265 feet long, 38 feet beam, and would carry 800 to 900 tons.

To 11th cross-int'y he says: Yes; I was an owner in the boat, but do not now recollect the extent of my interest.

To 12th cross-int'y he says: I presume there was, but don't know as to the protest. There was an average adjustment made at New Orleans by Messrs. Clark and Ivy.

R. S. SEMPLE.

EXHIBIT A.

Expenses incurred by st'r Potomac by reason of collision with st'r R. E. Lee.

Protest at Natchez	5	
Wharfage at Algiers	5	
Small line to tie tarpaulins	1	
Telegrams to Cincinnati	11	60
35 lbs. cotton for bulkhead	7	
Lumber	40	
Extra labor at Natchez	25	50
Brass nails		75
Wm. Harris, for hire of tarpaulins	88	40
Lewis Johnson, rudder irons	4	30
Extra wharfage at New Orleans	45	90
" labor disch'g " "	455	35
" " assorting " "	17	75
774 Putting in glass	8	25
Extra paid for watching cargo	136	50
" coopering	30	
St'r Mollie Able, freight bill on cargo from Natchez to N. O. to lighten boat	66	50
Southern Dry Dock Co's bill	2,978	13
Liberty cap on jack-staff	58	
New jack-staff	55	
Wickwork	12	
Welding stem-band	85	
Repairs to wagon broken	15	
Hire of barge Albert in tow of Potomac, 22 days, @ $10 a day	220	
Taking care of barge at Vicks	66	
Detention of boat 14 hours at Natchez, and 10 hours between Natchez and New Orleans, with full crew, passengers	500	

Wages paid crew while boat was detained at New Orleans as follows:

Jno. Shunk, capt., 21 days,	@ $200	175	
Alex. Devinning, clerk,	@ 125, 21 d'ys	87	50
Geo. H. Vanlow, "	" 75, 21 "	52	50
E. D. Robertson, "	" 100, 21 "	70	
Geo. Maloney, pilot,	" 250, 21 "	175	
E. Hanlon, "	" 250, 16 "	133	33
H. Holland, mate,	" 100, 21 "	70	
W. Lynch, 2d "	" 60, 21 "	42	
C. Hall, 1st eng.,	" 110, 21 "	77	
P. Squires, 2d "	" 75, "	52	50

Jno. Davis, striker,	"	30,	"	.....	21	
Malin Rusk, "	"	30,	"	.....	21	
W. Derenny, watchman,	"	45,	"	.....	31	50
775 J. C. Martin, carpenter,	@	60, 21 d'ys		.....	42	
H. Alferd, steward,	"	60,	"	.....	42	
Jno. Parker, 2d "	"	30,	"	.....	21	
W. Jones, cabin boy,	"	18,	"	.....	12	60
W. Bessel, "	"	20,	"	.....	14	
J. Morgan, pantry "	"	25,	"	.....	20	33
Ths. Thornberg, "	"	15,	"	.....	10	50
Jno. Mosin, cook,	"	100,	"	.....	70	
Jno. McDavell, baker,	"	75,	"	.....	52	50
Rose Dugin, chambermaid,	"	30,	"	.....	21	
Anna Thompson, 2 do.	"	15,	"	.....	10	50
J. Howell, deck hand,	"	35,	"	.....	28	
8 firemen, 21 days each,	"	35			196	
Subsistence, 15 officers, 21 days					472	50
" 17 men, @ 1½ a day					357	
Charter value of boat, 21 days, @ at $200 a day					4,200	
Permanent injury to boat					2,000	
					13,517	19

Exhibit A. R. S. Semple. E. T. Fries, not. pub.

JNO. W. CANNON
vs.
ST'R POTOMAC.

Interrogatories to be propounded to D. H. Conner & others, witnesses on the part of defendants.

1. Where do you reside, what is your occupation, and how long have you been so employed?

776 2. Were any repairs made in the port of New Orleans on st'b't Potomac, between the 25th day of December, A. D. 1870, and the 15th day of Jan'y, A. D. 1871? If yea, by whom were said repairs made, and for whom? State the nature of them, and what they cost. What was the cause why said repairs were made? State the reasons.

3. Can you annex a detailed statement of the said repairs, their cost, the entrance in dock, and cost generally; all the expenses that were incurred by reason of the causes you have referred to in your answer to the 2d interrogatory? Annex the said statement and account, and state whether the same is correct, and whether all said work therein set forth was done, and whether the dockage and other items therein enumerated are correct.

Were you paid the said amount of said account? If yea, when and where? Were said repairs necessary, and said expenditures, were they necessarily incurred? State your reasons.

J. A. ROZIER,
Att'y of Def'ts.

777 Cross-interrogatories.

1. Do you know what portion of the repairs on the Potomac were of recent injuries, and what part of were ancient injuries? If so, state.

2. Describe accurately the nature, extent, and cost of the repairs which had been made necessary by the collision with the Lee.

3. How many boats arrived in New Orleans from the Ohio River, between the 25th day of Dec'r, 1870, and the 15th Jan'y, 1871?

4. Do you not know, and is it not true, that the Ohio and the Upper Mississippi Rivers were blocked with ice in Dec'r, 1870, and Jan'y, 1871? State whatever you may know of the condition of these rivers in Dec'r, 1870, and Jan'y, 1871, as to navigability for boats of the class of the Potomac.

5. Did you ever know the Potomac to be employed in the cotton trade?

R. H. MARR,
For Libellant.

JNO. W. CANNON
vs.
ST'R POTOMAC.

Interrogatories to be propounded to Capt. Thos. P. Leathers, a witness on the part of defendants.

778 1. Where do you reside? What is your occupation and how long have you been so employed, and in what trade or trades of the river?

2. Were you acquainted with the st'r Magenta, a steamboat that was navigating the Mississippi during the year 1870? If yea, state her carrying capacity, her size and tonnage, her cost, her speed, and a general description of the boat.

3. Do you whether the said s'tb't Magenta was chartered during the year 1870? If yea, to whom? Upon what terms and conditions? When and where? For what trade or voyages, and the consideration of the charter or charter-party, and generally all you know about the charter? Was the same entered into verbally or in writing? If in writing, can you produce the original? If you cannot, state the reason. If you can furnish a copy, do so.

4. Have you any knowledge of the steamboat R. E. Lee, running now or lately on the Mississippi River to the port of New Orleans? If yea,
779 were you acquainted with the size, capacity for carrying of the boat, her speed, and generally the condition and value of the boat during the year 1870, and afterwards? How do you know this? If yea, state how she compared with the said steamboat Magenta, and state your opinion as to the two boats compared, as to their use, usefulness, or value? Could the R. E. Lee have been chartered from the 25th December, 1870, to the 15th Jan'y, 1871, or between said dates for any time? If you say nay, give your reasons.

J. AD. ROZIER,
Att'y of Def'ts.

Cross-interrogatories.

1. Did you ever know of the Potomac being chartered for or engaged in the cotton trade? If so, when, where, how long, by whom, and at what price?

2. What was the condition of the Upper Mississippi, and of the Ohio from 25 Dec'r, '70, to 15 Jan'y, '71? Was the water high or was it low? Was it free from ice or obstructed by ice? State all you may know in re-
780 spect to the fitness of these rivers for navigation by a boat of the class of the Potomac, between the dates mentioned.

3. How many boats arrived at New Orleans from the Upper Mississippi and the Ohio from Dec'r 25, 1870, to Jan'y 15th, 1871?

R. H. MARR,
For Libel't.

JNO. W. CANNON
vs.
ST'R POTOMAC.

Interrogatories to be propounded to H. K. Hazlett, Jno. A. Stevenson, J. T. Burdeau, Capt. Wayne, and others, whose answers thereto are to be read as evidence on the part of the def'ts.

1. Do you know the St. b't R. E. Lee, now or lately running on the Mississippi River to the port of New Orleans? What are your means of knowledge? How was she employed during the years 1870 & 1871? What was her trade? Could she have been chartered during the months of Dec'r, 1870, and Jan'y, '71, and especially between the 25th day of Dec'r, 1870, and the 15th day of January, 1871, or at any time between those two last mentioned dates, or what use could she have been put to? State all your means of knowledge on the subject.

181 2d. What is your trade or occupation, and when and where you have been so employed?

J. AD. ROZIER,
Att'y of Def'ts.

Cross-interrogatories.

1. What was the stage of water in the Ohio and Mississippi River from 25th December, 1870, to 15th Jan'y, 1871.

2. What was the character of the weather? Was not navigation interrupted during that period by ice in these rivers? State all you may know as to the obstruction of navigation by ice on those rivers during the period mentioned.

3. What was the number of arrivals at New Orleans of steamboats from the Upper Mississippi and the Ohio during the period mentioned?

4. Had not the Lee at the time this collision occurred in Dec'r, 1870, a profitable and permanent trade, as a weekly packet, carrying the mail between here and Vicksburg?

5. Is it not true that the cotton trade from Vicksburg to New Orleans was, at that time, monopolised by the packets Natchez,
782 R. E. Lee, Katie, Pargoud, and that an outside boat could not pay expenses in that trade?

6. If you know of any obstacle or obstruction of navigation in the Upper Mississippi or Ohio, or both, either by low water or ice during the winter of 1870 and 1871, state fully the nature and extent of such obstruction, the period at which it occurred or during which it existed, and its effect on the navigability of these rivers by boats of the character of the Potomac.

R. H. MARR,
For Libellant.

Agreed that a commission is waived, and that any U. S. comm'r or justice of the peace can take the answers to the foregoing sets of inter-

rogatories, and the same to be used as evidence on the part of the def'ts and claimants in matter of reference before J. W. Gurley, esq., comm'r.

MARR.

I am willing that any commissioner shall execute this.

R. H. MARR.

J. W. CANNON
vs.
ST'R POTOMAC.

The answers of Thos. P. Leathers to the interrogatories pro-
783 pounded on behalf of claimants of st'r Potomac, taken before J. W. Gurley, U. S. comm'r, this 3d day of June, 1876.

To the 1st int'y he saith: I reside in New Orleans; my occupation is that of steamboating; I have been a steamboatman for 46 years, and have been engaged in the Vicksburg trade for the last 36 years.

To 2d int'y he saith: I was acquainted with the st'r Magenta; her carrying capacity was about 4,400 bales. She carried about 1,100 tons of freight. I suppose she cost $140,000 or $150,000. I paid $125,000 for her in 1866. She was a very fine and fast boat. She was a fine passenger boat, about 1,100 tons capacity, about 290 feet long, about 44 feet beam, and 8 feet hold, of good power, and suitable for a packet in the Vicksburg trade. I ran her as a packet boat from 1866 to 1869.

To 3d int'y he saith: I think the Magenta was chartered in 1870
784 to take the place of the R. E. Lee at the time the Lee was sunk. When the Lee was sunk I think the Magenta took her place. It was chartered, I think, from Capt. Neill by Capt. Cannon. I don't know the terms and conditions. She was chartered to fill the place of the Lee. This was about the latter part of 1870. I think the consideration was from $3,200 to $3,500 a month. That would be a good charter for her. I never paid quite so much charter for a boat. I don't know anything about the charter. I don't know whether the charter was entered into verbally or in writing. I never saw the charter-party. I had nothing to do with the R. E. Lee or the Magenta. I owned nothing in either.

To 4th int'y he saith: I know about the R. E. Lee. She was running to Vicksburg, in the Vicksburg trade, as a weekly packet. Her capacity for carrying was about 4,800 or 5,000 bales of cotton. About 1,200 tons capacity. She was a fast boat. I don't know what her value was in 1870, but she was insured for $75,000. I believe her value would
785 be $125,000; how I know this, is by what she cost. She was 4 years old at that time, and the depreciation of her capital would be down to about $125,000 or $120,000. She was a little larger than the Magenta, of the same length, but a little more capacity and of more power and had two boilers more than the Magenta. They were very near the same in use, usefulness, and capacity. They were very near the same. The Magenta was the oldest boat and not valued so high. The Lee carried the most cotton, but the expenses of the Lee would have been more than those of the Magenta. The result in their business would have been about the same. I believe the Lee could not have been chartered from the 25th Dec'r, '70, to 15th Jan'y, '71, because she was in a fixed trade and a mail-boat, and would not of course be offered for charter. All that season of the year during the holidays it is generally dull, and in the river here there is no demand for such a charter as that boat either for charter or use.

Cross-interrogatories.

786 To the 1st cross-int'y he saith: I don't know of the Potomac having been chartered in the cotton trade.

To the 2d cross-int'y he saith: The condition of the Upper Mississippi and Ohio Rivers from the 25th Dec'r, 1870, to the 15 Jan'y, 1871, I don't know. I do not recollect whether the water was high or low. I do not know whether it was free from ice or not, because I was engaged in business here. I do not recollect the time and dates. I have no knowledge of the subject, being engaged running in the Vicksburg trade. I was attending to my business here. The Mississippi River is always deep enough for a boat of her class up to Vicksburg, but I have no personal knowledge of the Upper Mississippi and Ohio Rivers, because I was engaged in the lower trade. The Potomac was adapted for the Ohio River. She was a good Ohio River boat. She was built for that trade. A good boat making trips from the Ohio River to New
787 Orleans. She was not adapted for cotton in the lower trade. She was a boat of the class and size adapted for the Ohio River. She was a good passenger-boat.

To the 3d cross-int'y he saith: I do not recollect how many boats came from the Upper Mississippi and Ohio Rivers during the dates mentioned, but they were coming and going all the time.

T. P. LEATHERS.

Attest:

J. W. GURLEY, *Comm'r.*

DANIEL H. CONNER sworn.

The answers of Daniel H. Conner to the interrogatories propounded on behalf of the claimants and def'ts, taken before J. W. Gurley, U. S. comm'r, June 13th, 1876.

To the 1st int'y he saith: I reside in Algiers. My occupation is that of a ship-carpenter. I have been employed in that business about 27 years.

To the 2d int'y he saith: There were repairs made on the steamer Potomac in the port of New Orleans, between the 20th Dec'r,
788 1870, and the 15th Jan'y, 1871. They were made by the Southern Dry Dock Co. for the steamboat Potomac and owners. The nature of the repairs may be seen by the following bill, which I file. I prepared the bill myself, marked Conner A, amounting to $2,978.13.

St'r Potomac & owners, to Southern Dry Dock Co.

To entrance in dock, 488 tons	$275	
7 days' demurrage, $52	364	
118 oak wedges, 8c	9	40
5 iron " $1	5	
70 candles, 5c	3	50
480 lbs. wro't spikes, 12½ c	60	
25 " cut 10	2	50
20 " nails, 10	2	
340 washers, 2 cts	6	80
3 start punches, 1	3	
970 lbs. spun oakum, 18 cts	174	60
58 " ratline, 30 cts	17	40
26 " wro't nails for ratline, 12½	3	25

220	" white lead, 20 cts	44	
4	gal. oil, 1.25	7	
4	seam-brushes, 12, 50 cts	2	
3	bbls. pitch, 7.50	22	50
5	pitch mops, 1	5	
424	lbs. bolts, 12½	53	
178	" wro't sheathing nails, 12½	21	87
8	" putty, 15	1	
789	Two sheanes, 10 inches, 30	3	
	310 feet dressed pine, 6	18	60
3,084	" oak, 8	246	72
16	inch oak knees, 1	16	
138	days, carpenter, 4.50	621	
30	" " 3.50	105	
137	" caulker, 4	548	
21	" laborers, 2.50	52	50
7	" pitch boiler, 1.50	10	50
9	" foreman carpenter, 6	54	
8	" " caulker, 5.50	44	
249	lbs. stir'ups for beams, 15	37	35
Repairing	hog chaines	4	75
Caps for	"	4	
Repairing	hog straps	3	50
Hanger	for flag-staff	3	75
67	lbs. stirrups for carrals, 15	10	
12	screw-bolts, 15	1	80
12	lbs. flat washers, 12½	1	50
84	" iron for bottom, 15	12	60
Bellows	frame	1	50
8	staples, 25	1	20
25	lbs. sheet-iron, 15	3	75
5	days punching iron for bow, 5	25	00
Painting	hull, deck, &c	65	
		2,975	13

Correct copy.

D. H. CONNER, *Manager*.

NEW ORL'S, *Jan'y* 9, 1871.

The cause of the repairs being made, I understood, was because
790 of a collision between the Potomac and the Robert E. Lee. That is only hearsay, for I have no personal knowledge about it.

To the 3d int'y he saith: I have already annexed a detailed statement of the repairs and the cost; that includes the entrance into the dock and, generally, all the expenses that were incurred by reason of the damage done. That statement is correct. All that work was paid for and was actually done; all the items of the bill are correct, including docking. I was paid the amount of that bill immediately after the work was done; there must have been paid a portion of it the 9th January, 1871. I was on board the Potomac; it was paid there at the landing, all except $1,000, for which we got a sight-draft on Louisville; it was all paid. These repairs were necessary for the boat; all the expenses set out in the bill were necessary expenses. The work is all detailed in the bill. The vessel was leaking; her stern was shattered. This work was done under the superintendence of the marine sur-

791 veyor. This was all absolutely necessary to put her in good condition—as good as she was before the collision, as I was told.

To the 1st cross-int'y he saith: The portion of the repairs necessary by recent injuries was near the stern, the plank forward, and the caulking of the hull. In fact the greater portion of it was caused by recent injury. It would not have been repaired here at all but for that. It was comparatively a new boat. There was a new stem put and some plank forward and caulked all over. She had to be straightened forward owing to the force of the collision. There were so many items in it. The hog-chains were broken and the guards were raised up; had to be refastened down in stirrups. The carrals were carried away forward, and they had to be replaced and refastened. She had iron on her forward that had to be shifted and replaced, and her stanchions, some of them, put back. The new work had to be painted. I see there is the item here of $65. That was done by contract; we made the contract with the painter. None of the repairs were of old injuries;

792 the boat was nearly new. I think it was about her first trip. There were no repairs of old injuries to my knowledge.

To the 2d cross-int'y he saith: That has passed out of my recollection now. It is a good many years ago and I am drawing on my memory for it.

To the 3d cross-int'y he saith: I could not tell how many boats arrived here from the Ohio River between the 25th Dec'r, 1870, and the 15th Jan'y, 1871.

To the 4th cross-int'y he saith: I have no personal knowledge. I may have heard say that there was ice there. I repaired the Nick Longworth. I repaired her, but I have no personal knowledge. I don't know anything of the condition of these rivers, personally, from Dec., 1870, to Jan'y, 1871. I was at New Orleans at the time. As to their navigability by the class of boats like the Potomac, I know that the Nick Longworth came down at that time.

793 To the 5th cross-int'y he saith: I never knew the Potomac to be employed in the cotton trade.

Attest: J. W. GURLEY, *Com'r.*

JOHN A. STEVENSON answers:

1. I know the steamer R. E. Lee; have known her from the time she was built. She was a packet between this city and Vicksburg; that has been her regular trade ever since she was built. I do not think she could have been chartered between 25th December, 1870, and 15 Jan'y, '71.

2. I am a steamboat agent here since 1863, about.

Cross:

1. Cannot state the stage of water in those rivers during the period mentioned.

2. No recollection of the weather. Do not know as to obstruction of the navigation. It is common for the navigation of those rivers to be obstructed by ice at that period of the year.

3. Do not recollect the number of arrivals. Can only tell by reference to the marine and river reports.

4. The Lee had in Dec'r, 1870, a permanent and profitable

794 trade in carrying the mail between this city *of* Vicksburg.

5. The trade was monopolized by the regular packets, of which the Lee was one, and I do not think an outside boat could then have paid expenses in that trade.

6. Have no knowledge of the matters here enquired of.

JOHN A. STEVENSON.

220	" white lead, 20 cts	44	
4	gal. oil, 1.25	7	
4	seam-brushes, 12, 50 cts	2	
3	bbls. pitch, 7.50	22	50
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25	lbs. sheet-iron, 15	3	75
5	days punching iron for bow, 5	25	00
Painting	hull, deck, &c	65	
		2,975	13

Correct copy.

D. H. CONNER, *Manager*.

NEW ORL'S, *Jan'y* 9, 1871.

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793 To the 5th cross-int'y he saith: I never knew the Potomac to be employed in the cotton trade.

Attest: J. W. GURLEY, *Com'r.*

JOHN A. STEVENSON answers:

1. I know the steamer R. E. Lee; have known her from the time she was built. She was a packet between this city and Vicksburg; that has been her regular trade ever since she was built. I do not think she could have been chartered between 25th December, 1870, and 15 Jan'y, '71.

2. I am a steamboat agent here since 1863, about.

Cross:

1. Cannot state the stage of water in those rivers during the period mentioned.

2. No recollection of the weather. Do not know as to obstruction of the navigation. It is common for the navigation of those rivers to be obstructed by ice at that period of the year.

3. Do not recollect the number of arrivals. Can only tell by reference to the marine and river reports.

4. The Lee had in Dec'r, 1870, a permanent and profitable
794 trade in carrying the mail between this city *of* Vicksburg.

5. The trade was monopolized by the regular packets, of which the Lee was one, and I do not think an outside boat could then have paid expenses in that trade.

6. Have no knowledge of the matters here enquired of.

JOHN A. STEVENSON.

Sworn to & subscribed before me 15th June, 1876.
J. W. GURLEY, *Comm'r.*

Answers of C. G. Wayne to interrogatories.

1. I know the steamboat R. E. Lee. I am a steamboat agent. I have acted as agent for her. Have known Capt. Cannon and his officers almost ever since the boat was built. Have been a steamboatmen most of my life.

In 1870 & '71, the Lee was a packet between New Orleans and Vicksburg. She was not fit for any other trade than the trade for which she was built, viz: That between New Orleans and Vicksburg, or the bend cotton trade between Greenville and New Orleans. I suppose
795 Captain Cannon could have chartered the Lee in Dec., 1870, and Jan'y, 1871, had he desired to do so, for that trade, for that was in the midst of the cotton season.

2. I have already answered that.

Cross:

There was fair boating stage of water in the Upper Mississippi and Ohio Rivers from 25th Dec., 1870, to 15th Jan'y, 1871.

2. The weather was fair business winter weather. Those rivers were not interrupted by ice between 25th Dec., '70, to Jan'y, '71.

I keep a regular record of all the boats for which I act as agent, and during the period mentioned, I was agent for boats running in those rivers, and on reference this morning to my record, I find that the boats in that trade were during the period mentioned, running regularly.

3. Cannot state the number exactly, without referring to my books, but I suppose from 10 to 12 boats arrived from those rivers between 25th December, 1870, and 15th Jan'y, 1871.

4. The Lee had in Dec'r, 1870, a profitable and permanent
796 trade as weekly packet carrying the mail between New Orleans and Vicksburg.

5. The trade between New Orleans an' Vicksburg was at the time monopolized by the packets Natchez, Lee, Katie, and Pargoud. No outside boat could have paid expenses at that time by going into it.

Other boats, however, brought down some cotton.

6. There was at that time no obstruction in those rivers; ice was running, but not enough to obstruct navigation. The Potomac could have gone up. She was making her regular trips.

C. G. WAYNE.

Sworn to & subscribed before me 15th June, 1876.
J. W. GURLEY,
Comm'r.

JNO. W. CANNON *vs.* ST'R POTOMAC. } No. 9760.

Testimony on damages sustained by the steamer R. E. Lee, by collision with str. Potomac, on Dec'r 21st, 1870, before J. W. Gurley, U. S. comm'r, this 26th July, 1875. Present, R. H. Marr, esq., for
797 libell't, J. A. Rozier, esq., for claimant.

J. H. MOSSOP, sworn and examined for libellant, says:

Q. Were you in any way connected with the steamer R. E. Lee in Dec'r, 1870, at the time of the collision between her and the Potomac

A. I was clerk of the boat at the time.
Q. Who made the disbursements?
A. I did.
Q. Have you got statement of the amount that you actually paid out for the repairs of that boat?
A. I have a sort of statement of the monies paid out by me at different times.
Q. Is it a correct statement?
A. It is a correct statement of what monies I paid out myself.
Q. If it does not cover the whole amount it is because Capt. Cannon paid out monies himself?
A. He was in the habit of paying out money on the boat, and never telling the clerk about it, paying out public and private both.

798 Q. With regard to the amount that you have there stated, did you not pay out all these items, and were they paid out by you as clerk of the boat as expenses caused by this collision?

A. Yes, sir; they were paid by me as clerk of the boat, and, with the exception of one bill that I am not positive about, they were all paid out as expenses of that collision.
Q. Which one bill is that?
A. It is Hennessy's (foundry) bill; the vouchers were all sent to Cincinnati.
Q. What is the amount of that bill?
A. $1,800.
Q. You paid Hennessy that money, but you do not know whether it was for the repairs of that accident?
A. I don't know. I am not positive. I will see Hennessy, and get a detailed statement of it. I will get him to certify the bill and swear to it.
(Libellant offers the bill or account, marked A, referred to by the witness Mossop.)

799 Q. You say the vouchers for these payments are not in your possession; what became of them?

A. They were given to Captain Cannon when he was going to Cincinnati to settle with the underwriters, and I suppose they were left there.
Q. How long was the Lee detained in consequence of this collision?
A. 3 weeks. She lost 3 trips.
Q. What was the business of the boat at that time? What was her earnings?
(Mr. Rozier, for claimants, objects to any testimony as to probable or hypothetical profits, and states that if such proceedings are allowed to be enquired into, the examination may be here stopped until the matter can be submitted to the court for settlement, and the commissioner declines to postpone the examination for that purpose, and declines also to rule upon the admissibility of the testimony.)

800 A. Our receipts at that time, or at least our profits at that time, were between $4,000 & $5,000 a week. I could not say without the boat making a trip whether she would make anything or not.

Q. What did she make on the trips immediately preceding the collision?
A. Her trips were about $5,700 a week's profit on each of the 3 trips immediately preceding the collision. The total of the 3 after the repairs being made was $15,617.82 profits.
Q. There were clear profits made by the boat?

A. Yes, sir.
Q. Did you take that from your books?
A. Yes, sir.
Q. Which you know to be correct?
A. Yes, sir; it is taken from my books.
Q. You handled the money?
A. Yes, sir; the first trip after the collision the profits were $4,865.33; the second trip, $5,794.30; and the third, $4,958.19.
Q. Where was the boat plying?
A. Between New Orleans and Vicksburg.
Q. Making weekly trips?
A. Yes, sir; leaving this port every Tuesday evening.
Q. How did the quantity of cotton on the banks of the river Mississippi, between New Orleans and Vicksburg, for shipment at that
801 time, compare with the cotton on the banks of the river when you again resumed your trips?
A. It was about the same as it had been. It was the busy time of the year. The cotton season opens in the latter part of October, and from that time until February or March we have all we can do; then it begins to slacken off.
Q. Do you recollect whether there were any extraordinary cargoes of cotton brought down by any steamboat during the time the Lee was lying up for repairs?
A. During the time the Lee was lying up for repairs, the Natchez brought down a cargo of 5,500 bales of cotton or more.
Q. Do you know whether during the time the Potomac was lying up for repairs at the port of New Orleans, there was any demand for a boat like the Potomac for charter here?
A. I do not. I don't know that there would be. I don't know of any demand of that kind at that time. I am aware of it at least.
Q. Have you any knowledge of the condition of the Ohio
802 River at that time?
A. No, sir; I have not. I think the river was very low. I am not positive. The night that that boat was sunk was as cold a night as I ever experienced on the Mississippi River or any where else.
Q. At the time this accident occurred in what condition was the Lee; was she fitted up regularly for business?
A. She was in the best condition. She had been repaired in the fall and put in proper order for the season's work.
Q. She was in a condition to perform the entire season's work?
A. Yes, sir; without accident.
Q. Of all these payments that you made, had you the vouchers in your possession at one time?
A. Yes, sir.
Q. They passed out of your possession, having been taken to Cincinnati in order to make a settlement with the underwriters?
A. Yes, sir. I will state here that the underwriters in settling with Capt. Cannon deducted one-third new for old. That is the custom, and for that reason the amount paid by the underwriters does not
803 correspond with the amount paid out by me.

Cross-examined.

Q. Are you interested in the Lee, or were you at that time?
A. Never, but as clerk.
Q. For how long?
A. I have been with Capt. Cannon, as clerk on his boats, since the war, either as first or second clerk. I have not been on the Lee all that

time, but on other boats belonging to him. I have been in his employ since the war.

Q. Did you have charge of the books?

A. I did.

Q. You were book-keeper, then?

A. Yes, sir; and I was clerk.

Q. You had entire charge of the books?

A. Yes, sir.

Q. Did you examine all the books, vouchers, papers, &c., with a view of ascertaining exactly what the boat was doing at that time?

A. Yes, sir; I have examined them to know. All the memoranda were taken from the cash-book as the book was written up at the time.

804 Q. Were you in the habit of making a balance-sheet at the time?

A. It is customary in our trade here to make a statement every week of the boat's business, which shows the profits.

Q. Can you ascertain the profits in the course of a week?

A. Yes, sir; just as soon as we close the trip we balance our cash and make our statement from that; we keep each account separately; "wages," "fuel," & expenses, and "freight & passengers." Then we deduct one from the other and we find the profits; sometimes a little damages come in.

Q. Were there any claims for damages at the time you speak of?

A. None that I know of. If I could find the old statement book I could tell, but I don't know of any.

Q. Could you give us the amount of your expenses?

A. I could go and make it up for you; I cannot do it now because I have not the books here, but I will make the account.

Q. What did the boat make profits the three trips immediately preceding the collision?

805 A. I did not make out any memorandums of that, but could make one. I did not bring any memorandum of it with me to-day.

N. O., *July 27th*, 1875.

Testimony resumed, both proctors present, when the witness, J. H. Mossop, at the request made by Mr. Rozier, proctor for respondents, produces 3 balance sheets showing the business of the steamboat R. E. Lee for the 3 trips immediately succeeding the collision, marked respectively C, D, E.

Cross-examination resumed.

Q. These 3 sheets do not contain detailed items, but are in gross?

A. Yes, sir; in gross.

Q. During the 3 weeks that you speak of, during which the Lee ceased to run by reason of the collision, was any other boat put in place of the Lee?

A. The steamboat Grand Era came up and finished the trip for the Lee on which the collision occurred.

Q. She made one trip, then?

A. Yes, sir.

Q. What did you charter her for?

A. I think the chartes was $800, to the best of my recollection.

806 Q. For the week?

A. Yes, sir.

Q. Do you know what she made—what her receipts were?

A. No, sir, I do not; I could find out, of course.

Q. You don't know what her receipts and disbursements on that trip were?

A. No, sir; not without looking.

Q. Which other boat did you have chartered to run in place of the Lee?

A. We did not have any. We chartered the Magenta, but she was burned up at the wharf here before we could use her.

Q. What agreement did you make with the Magenta with respect to the charter party?

A. I cannot state, as it was made with the captain of the boat.

Q. In the total expenses of a trip are there not other expenses that come in afterwards that have to be charged to the trip?

A. No, sir; not customary generally.

Q. What were your receipts the 3 weeks previous to the collision? The collision occurred on December 20.

A. I don't know.

Q. How do they compare with those, C, D, E?

807 A. I don't know, but I don't think they were quite so much.

Q. When is the real cotton season, when most of the cotton comes down?

A. As I stated before, our heavy business commences in October and runs on until February; sometimes it closes earlier.

Q. Are not the 3 good months October, November, and December?

A. No, sir; I consider the 3 best months to be November, December, and January.

With regard to the fuel bill being so high, I will state that we paid a dollar and a half for coal by the box, and having to do that, we raised the price of freight. We charged $1.87½ a bale for cotton; our regular rate before that was $1.25. We had to add 50 per cent. to the freight in order to cover the expense of the fuel.

Q. Was not this an unusual run for your boat during these 3 weeks, as represented by these vouchers C, D, E?

A. Well, it was a big week's work, but that is what the boat actually done.

Q. During these three weeks?

808 A. Yes, sir.

Q. Did business afterwards continue in the same way?

A. No, sir; it commenced to fall off.

Q. In what proportion did it commence to fall off?

A. Well, I would have to bring the cash-book here and make a statement of the whole business. You cannot get it in any other way to save your soul.

Q. What was the net result of the whole business season?

A. I don't know; I have not the statement here.

Q. Your business after these 3 weeks did not come near this amount?

A. No, sir; it fell off some.

Q. About what proportion?

A. I don't know.

Q. Give us your idea.

A. I cannot give you an idea, but by referring to the books I could give it to you exactly.

Q. What was the proportion during these 3 weeks preceding the collision?

A. I don't know without looking.

Q. Can you not look at your books and give us that?

A. I can. I can give you a statement of the boat's whole business during the season.

809 Q. What was the rate of freight on cotton during these 3 vouchers C, D, & E?

A. I know a portion, if not all, of the time it was $1.87½ a bale.

Q. During these 3 trips?

A. Yes, sir, and prior to them.

Q. How long prior to them?

A. I cannot say positively, but I think some time in December cotton was put up at $1.87½ a bale.

Q. In the latter part of December?

A. No, sir; I think about the middle of December. I cannot say positively.

Q. How much was it before that?

A. $1.25 was the regular price.

Q. Did it continue so during the season in respect to what you state?

A. No, sir; as soon as coal came down, cotton came down. For coal we paid nearly three prices; 60 cents is generally the price of coal during the winter season, and we paid them $1.50 for it by the box or barrel.

Q. You make no calculation as to the wear and tare of the boat?

A. No, sir.

810 Q. What does a boat decrease in wear and tear?

A. I cannot tell; I don't know.

Q. At the end of the season does it not require a large amount of repairs?

A. Yes, sir; it takes a large amount of money for repairs.

Q. How much did you pay that season for repairs; the season of 1871?

A. The summer of 1871? I cannot state without referring to the books.

Q. Will you furnish a statement of that also?

A. Yes, sir; two years ago we spent over $30,000 at St. Louis to repair the Lee; and this year, as we have no docking to do, it will not cost over $12,000.

Q. Boats need repairs every year?

A. Yes, sir.

Q. You will give us then a statement of what the repairs were for that season, so as to put the boat in running order for the next season?

A. Yes, sir.

Q. That, then, is to be deducted at the end of the season?

A. Yes, sir.

811 Q. That is not included, then, and no calculation made of it in these vouchers?

A. No, sir.

Q. In these expenses, is the insurance included?

A. The insurance expense is not included in the trip statement at all.

Q. What was the insurance on the Lee at that time?

A. I cannot state positively, but about $50,000; the insurance premium was 10 %, I believe; that is what they charge in Cincinnati.

Q. That would be $5,000 for the season?

A. Yes, sir.

Q. They do not charge you more than 10 %?

A. No, sir; and only 11 % here.

Q. In obtaining this freight, have you any charges which diminish the amount of profits; any amounts which you pay to others to control business?

A. We pay agents and the like of that, but that is included in the item of expense.

Q. But is there any other expenses outside for bounties, &c., that you give?

A. No, sir; everything is included in that item of expense,
812 everything outside of these 3 items, "fuel," "stores," and "wages," goes into the expense account. It is a sort of general account of items of expense which cannot be entered under any particular head.

Q. The wear and tear of a boat is very great?

A. Some parties wear a boat out very quick, because they do not take care of it; others make a boat last a long time. The Lee will be 9 years old in November; she was built in 1866.

Q. You had chartered the Magenta?

A. Yes, sir; if my recollection is right.

Q. Were there not other boats here at the time which you could have chartered?

A. Not that I know of.

Q. As a general rule here in the port of New Orleans, is it not pretty easy to get boats on charter?

A. I suppose you could get boats on charter, buf it is not always convenient to get the kind of boat you want. It would be impossible to get a boat like the Lee on charter unless the Natchez was idle, which is not probable, or the Katie; but to charter other boats would be inconvenient.

813 Q. Did your boat belong to a packet company at the time?

A. No, sir; the boat was owned by Captain Cannon.

Q. I understand; but you formed a company?

A. No, sir; I don't think we were working with anybody at that time, but I am not positive. It may be possible that the New Orleans & Vicksburg Packet Company was in existence at that time; I would have to refer to find it out. It may be possible that there was a company.

Q. How many boats were working in that company?

A. 3 or 4 boats. I cannot state positively.

Q. The good trips that you mention in these vouchers, C, D, E, were they not owing to your not having run for some time, and that a great deal of cotton was kept back for you?

A. That might be possible, but I cannot say.

Q. Is not that season of the year the best for passengers, from January 10?

A. The winter is the best season for passengers.

814 Q. But at that time, January 10?

A. I don't know. The best trips for passengers that our boats have is about Mardi Gras, the 8th or 9th of February.

Q. How are the Christmas and New Year's holidays?

A. It increases a little just before Christmas, but not so very much. During the winter, while the planters and everybody are not so busy, is the time they do the travelling.

Q. It depends upon rainy weather, so far as a cargo of cotton is concerned?

A. No, sir; rain or shine, we take our cargo and handle it just the same.

Q. But do you get it?

A. Yes, sir; it is always on the bank.

Q. Were there not some trips that you lost money?

A. Yes, sir; there are trips during the year that we lose money.

Q. But during that season are there not trips that you lost money?

A. That I cannot state. I will give you a statement which will furnish everything.

815 Re-examined:

Q. How long has the Lee been running in that trade?

A. Ever since she was built, during the winter season.

Q. Prior to that, had Capt. Cannon any boat in the Vicksburg trade?

A. Yes, sir; he had the steamboat General Quitman.

Q. Capt. Cannon always had boats running every Saturday in the Vicksburg trade?

A. Yes, sir.

Q. Was he not in an established business?

A. Yes, sir; since the war and further back than I can go myself, Capt. Cannon had the Thursday boat in the bend fleet and was interested in the Vicksburg trade.

Q. Was there any boat here at New Orleans which was capable of taking the Lee's place at the time the accident occurred?

A. None that I am aware of.

Q. What was the capacity of the Grand Era, as compared with the Lee?

A. Very little over half.

Q. What was the capacity of the Magenta, as compared with the R. E. Lee?

816 A. The Magenta and the Lee would be very near alike as far as tonnage is concerned; but as to carrying cotton, there would be a difference of 1,000 bales in favor of the Lee.

Q. The Lee would carry 1,000 bales more than the Magenta?

A. Yes, sir; she did it.

Q. Did Capt. Cannon carry the mail on the Lee?

A. Yes, sir.

Q. How long have you been carrying the mail on the Lee?

A. Ever since the war, with one or two exceptions, for a few weeks, when we got into a muddle with the department, as we have done lately, about the price.

Q. Do you not know that the crop of cotton was extraordinary large in 1870?

A. Yes, sir; that is, I suppose it was very large, but I cannot say. I don't recollect.

By Mr. GURLEY, commissioner:

Q. How long before this accident had the Lee been in the dock?

A. I believe it was in July.

Q. And the accident happened in what month?

817 A. On Wednesday night, the 21st December, 1870.

Q. When would she have gone into dock again if the accident had not occurred?

A. Perhaps the next year; maybe not. This year we will not go into the dock. We spent $30,000 on her two years ago in St. Louis repairing the hull, but she is not in the dock this year.

Q. They were extraordinary repairs?

A. Yes, sir; $30,000.
Q. You considered her almost a new boat?
A. Yes, sir; so far as the hull was concerned.
Q. What was the value of the Lee at the time of the accident?
A. I don't really know. I would suppose she was worth from $90,000 to $100,000. Her owners would not have taken that for her; but, of course, you could not tell her value by that.
Q. What would she have sold for?
A. I suppose you could sell her for any price, except the trade. If Capt. Cannon wanted to retire he could sell the boat and the trade with it for $100,000. She would be unsaleable for anybody who
818 did not have a place to put her in trade.
Q. Do you make an annual statement of the cost of repairs?
A. We make an account of the average. I can only speak of the repairs of the Lee. I suppose since Capt. Cannon had her she has cost from $18,000 to $20,000 a year for repairs. She cost him $35,000 once.
Q. What was her need of repairs at the time of the accident?
A. None, she had a bucket plank or so off at the time, but that was nothing.

Attest: J. W. GURLEY, *Comm'r.*

Trip statement.—Doc't E.

Steamer Rob't E. Lee, trip No. 15, from New Orleans to Vicksburg and return:

Freight	$10,857 03	Fuel	$3,314 00
Passengers	2,505 25	Stores	1,261 36
		Wages	1,655 70
		Expenses	2,265 89
Total	13,362 28	Total	8,496 95

RECAPITULATION.

Total amount receipts	13,362 28
Total amount expenses	8,496 95
Profits	4,865 33

Remarks: N. O., Jan'y 16th, 1871.

J. H. MOSSOP, *Clerk.*

819 *Trip statement.—Doc't D.*

Steamer Rob't E. Lee, trip No. 16, from New Orleans to Vicksburg and return:

Freight	11,721 18	Fuel	3,112 50
Passengers	2,223 50	Stores	1,203 06
		Wages	1,678 85
		Expenses	2,155 97
Total	13,944 68	Total	8,150 38

RECAPITULATION.

Total amount receipts	13,944 68
Total amount expenses	8,150 38
Profits	5,794 30

Remarks: N. O., Jan'y 23, 1871.

J. H. MOSSOP, *Clerk.*

Trip statement.—Doc't C.

Steamer Rob't E. Lee, trip No. 17, from New Orleans to Vicksburg and return:

Freight	10,414 06	Fuel	2,543 50
Passengers	1,905 30	Stores	1,006 76
		Wages	1,664 50
		Expenses	2,146 41
Total	12,319 36	Total	7,361 17

RECAPITULATION.

Total amount receipts	12,319 36
Total amount expenses	7,361 17
Profits	4,958 19

Remarks: N. O., January 30, 1871.

J. H. MOSSOP, *Clerk.*

820 TRIP STATEMENT OF ST'R R. E. LEE, FURNISHED BY MR. MOSSOP, IN CONNECTION WITH HIS TESTIMONY TAKEN 26 JULY, 1875, BEFORE J. W. GURLEY, COMMISSIONER, AND FILED WITH HIS REPORT.

Statement of the business of st'r R. E. Lee, from Sept. 23, 1870, *to Ap'l* 6, 1871, 6 *months and a half.*

1870.				Profit.	Loss.
Sept.	29.	Trip	No. 1	1,636 72	
Oct.	3.	"	" 2	1,631 17	
"	10.	"	" 3	1,940 40	
"	17.	"	" 4	2,697 96	
"	24.	"	" 5	870 24	
Nov.	1.	"	" 6		392 50
"	8.	"	" 7	2,426 71	
"	14.	"	" 8	3,136 18	
"	21.	"	" 9	2,698 54	
"	29.	"	" 10	2,288 27	
Dec.	6.	"	" 11	1,488 79	
"	12.	"	" 12	1,908 98	
"	19.	"	" 13	1,428 01	
"	27.	"	" 14	215 15	

1871.					
Jan'y 16.	"	" 15	4,816 90		
" 23.	"	" 16	5,769 30		
" 30.	"	" 17	4,797 69		
Feb'y 6.	"	" 18	3,479 62		
" 12.	"	" 19	3,315 09		
" 20.	"	" 20	4,139 24		
" 27.	"	" 21	2,860 33		
M'ch 6.	"	" 22	3,017 18		
821 M'ch 13.	Trip No.	23	2,497 25		
" 20.	"	" 24	568 35		
27.		" 25	283 87		
April 6.	"	" 26	474 72		
					392 50
			60,386 66		
Less loss, trip 6			392 50		
			59,994 16		

Trip statement, st'r R. E. Lee, trip No. 1.

From New Orleans to Vicksburg and return:

Freight	5,543 46	Fuel	1,819
Passengers	1,949	Stores	954 51
		Wages	1,557 90
		Expenses	1,528 33
Total	7,492 46	Total	5,855 74

RECAPITULATION.

Total amount of receipts	7,492 46
Total amount of expenses	5,855 74
Profits	1,636 72

Remarks: N. O., Sept. 29, 1870.

J. H. MOSSOP, *Clerk.*

Trip statement, st'r R. E. Lee, trip No. 2.

From New Orl's to Vicksburg & return:

Freight	5,783 04	Fuel	2,045 90
Passengers	1,866 00	Stores	881 11
		Wages	1,639 35
		Expenses	1,371 59
		Loss & damage	79 92
Total	7,649 04	Total	6,017 87

822

RECAPITULATION.

Total amount receipts	7,649 04
" " expenses	6,017 87
Profits	1,631 17

Remarks: N. O., Oct. 31, 1870.

J. H. MOSSOP, *Clerk.*

Trip statement st'r R. E. Lee, trip No. 3.

From New Orleans to Vicksburg and return:

Freight	6,623 05	Fuel	2,056 65
Passengers	1,452 00	Stores	925 30
		Wages	1,738 95
		Expenses	1.398 12
		Loss	115 63
Total	8,075 05	Total	6,134 65

RECAPITULATION.

Total amount receipts	8,075 05
" " expenses	6,134 65
Profits	1,940 40

Remarks: N. O., Oct. 10, 1870.

J. H. MOSSOP, *Clerk.*

Trip statement st'r R. E. Lee, trip No. 4.

From New Orl's to Vicksburg and return:

Freight	7,507 09	Fuel	1,974 80
Passengers	1,537 00	Stores	839 98
		Wages	1,796 70
		Expenses	1,699 65
		Loss	35 00
Total	9,044 09	Total	6,346 13

823

RECAPITULATION.

Total amount receipts	9,044 09
" " expenses	6,346 13
Profits	2,697 46

Remarks: N. O., Oct. 17, 1870.

J. H. MOSSOP, *Clk.*

Trip statement st'r R. E. Lee, trip No. 5.

From New Orleans to Vicksburg and return:

Freight	5,976 38	Fuel	1,365 30
Passengers	1,152 00	Stores	907 86
		Wages	1,990 55
		Expenses	1,976 35
		Loss	18 08
Total	7,128 38	Total	6,258 14

RECAPITULATION.

Total amount receipts	7,128 38
" " expenses	6,258 14
Profits	870 24

Remarks: N. O., Oct. 24, 1870.

J. H. MOSSOP, *Clerk.*

Trip statement st'r R. E. Lee, trip No. 6.

From New Orl's to Vicksburg & return:

Freight	8,055 53	Fuel	3,584 20
Passengers	2,088 50	Stores	1,867 76
		Wages	2,564 47
		Expenses	2,363 30
		Loss	156,80
Total	10,144 03	Total	10,536 53

824

RECAPITULATION.

Total amount receipts	10,144 03
" " expenses	10,536 53
Profits loss	392 50

Remarks: N. O., Nov., 1870.

J. H. MOSSOP, *Clerk.*

Trip statement, of st'r R. E. Lee, trip No. 7.

From New Orleans to Vicksburg & return:

Freight	8,183 45	Fuel	2,127 30
Passengers	1,943	Stores	1,004 66
		Wages	2,037 75
		Expenses	2,323 93
		Loss	106 10
Total	10,126 45	Total	7,699 74

RECAPITULATION.

Total amount receipts	10,126 45
" " expenses	7,699 74
Profits	2,426 71

Remarks: N. O. Nov. 8, 1870.

J. H. MOSSOP, *Clerk.*

Trip statement st'r R. E. Lee, trip No. 8.

From New Orl's to Vicksburg & return:

Freight	8,081 07	Fuel	1,912 00
Passengers	2,195 05	Stores	1,018 41
		Wages	2,092 40
		Expenses	2,117 13
Total	10,276 12	Total	7,139 94

RECAPITULATION.

825	Total amount receipts	10,276 12
	" " expenses	7,139 94
	Profits	3,136 18

Remarks: N. O., Nov. 14, 1870.

J. H. MOSSOP, *Clerk.*

Trip statement st'r R. E. Lee, trip No. 9.

From New Orl's to Vicksburg & return:

Freight	7,995 72	Fuel	2,548 05
Passengers	2,144 00	Stores	1,182 62
		Wages	1,869 35
		Expenses	1,829 39
		Loss	11 77
Total	10,139 72	Total	7,441 18

RECAPITULATION.

Total amount receipts	10,139 72
" " expenses	7,441 18
Profits	2,698 54

Remarks: N. O., Nov. 21, 1875.

J. H. MOSSOP, *Clerk.*

Trip statement st'r R. E. Lee, trip No. 10.

From N. Orl's to Vicksburg & return:

Freight	8,032 20	Fuel	2,660 75
Passengers	1,836 80	Stores	1,017 86
		Wages	1,885 85
		Expenses	1,970 10
		Loss	46 17
Total	9,869 00	Total	7,580 73

RECAPITULATION.

826 Total amount receipts 9,869 00
" " expenses 7,580 73

Profits 2,288 27

Remarks: N. O., Nov. 29, 1870.

J. H. MOSSOP, *Clerk.*

Trip statement st'r R. E. Lee, trip No. 11.

From New Orleans to Vicksburg & return:

Freight	7,604 86	Fuel	2,614 50
Passengers	2,186 25	Stoves	1,132 14
		Wages	2,157 50
		Expenses	2,299 89
		Loss	98 29
Total	9,791 11	Total	8,302 32

RECAPITULATION.

Total amount receipts 9,791 11
" " expenses 8,302 32

Profits 1,488 79

Remarks: N. O., Dec. 6, 1870.

J. H. MOSSOP, *Clerk.*

Trip statement st'r R. E. Lee, trip No. 12.

From New Orl's to Vicksburg & return:

Freight	7,425 98	Fuel	2,471 75
Passengers	2,372 00	Stores	1,162 33
		Wages	2,042 20
		Expenses	2,138 56
		Loss	74 16
Total	9,797 98	Total	7,889 00

RECAPITULATION.

827 Total amount receipts 9,797 98
" " expenses 7,889 00

Profits 1,908 98

Remarks: N. O., Dec. 12, 1870.

J. H. MOSSOP, *Clerk.*

Trip statement st'r R. E. Lee, trip No. 13.

From N. Orl's to Vicksburg & return:

Freight	5,736 98	Fuel	2,329 65
Passengers	2,933 50	Stores	1,085 04
		Wages	1,998 15
		Expenses	1,791 50
		Loss	38 13
Total	8,670 48	Total	7,242 47

RECAPITULATION.

Total amount receipts	8,670 48
" " expenses	7,242 47
Profits	1,428 01

Remarks: N. O., Dec'r 19, 1870.

J. H. MOSSOP, *Clerk.*

Trip statement Grand Era in place of st'r R. E. Lee, trip No. 14.

From New Orl's to Vicksburg & return:

Freight	6,180 17	Fuel	2,636 00
Passengers	1,694 00	Stores	1,464 92
		Wages	2,194 90
		Expenses	1,363 20
Total	7,874 17	Total	7,659 02

RECAPITULATION.

828 Total amount receipts	7,874 17
" " expenses	7,659 02
Profits	215 15

Remarks: N. O., Dec'r 27, 1870.

J. H. MOSSOP, *Clerk.*

Trip statement st'r R. E. Lee, trip No. 15.

From New Orl's to Vicksburg & return:

Freight	10,857 03	Fuel	3,314 00
Passengers	2,505 25	Stores	1,261 36
		Wages	1,655 70
		Expenses	2,265 89
		Loss	48 43
Total	13,362 28	Total	8,545 38

RECAPITULATION.

Total amount receipts	13,362 28
" " expenses	8,545 38
Profits	4,816 90

Remarks: N. O., Jan'y 16, 1871.

J. H. MOSSOP, *Clerk.*

Trip statement st'r R. E. Lee, trip No. 16.

From New Orl's to Vicksburg & return:

Freight	11,721 18	Fuel	3,112 50
Passengers	2,223 50	Stores	1,203 06
		Wages	1,678 85
		Expenses	2,155 97
		Loss	25 00
Total	13,944 68	Total	8,175 38

RECAPITULATION.

829	Total amount receipts	13,944 68
	" " expenses	8,175 38
	Profits	5,769 30

Remarks: N. O., 23 Jan'y, 1871.

J. H. MOSSOP, *Clerk.*

Trip statement st'r R. E. Lee, trip No. 17.

From New Orl's to Vicksburg & return:

Freight	10,414 06	Fuel	2,543 50
Passengers	1,905 30	Stores	1,006 76
		Wages	1,664 50
		Expenses	2,146 41
		Loss	160 50
Total	12,319 36	Total	7,521 67

RECAPITULATION.

Total amount receipts	12,319 36
" " expenses	7,521 67
Profits	4,797 69

Remarks: N. O., Jan'y 30, 1871.

J. H. MOSSOP, *Clerk.*

Trip statement st'r R. E. Lee, trip No. 18.

From New Orl's to Vicksburg & return:

Freight	8,412 53	Fuel	2,656 50
Passengers	2,198 75	Stores	1,046 22
		Wages	1,564 00
		Expenses	1,268 93
		Loss	96 01
Total	10,611 28	Total	7,131 66

RECAPITULATION.

830	Total amount receipts	10,611 28
	" " expenses	7,131 66
	Profits	3,479 62

Remarks: N. O., Feb'y 1, 1871.

J. H. MOSSOP, *Clerk.*

Trip statement st'r R. E. Lee, trip No. 19.

From New Orl's to Vicksburg & return:

Freight	7,544 82	Fuel	2,074 80
Passengers	2,441 30	Stores	1,086 45
		Wages	1,587 70
		Expenses	1,820 00
		Loss	102 06
Total	9,986 12	Total	6,671 03

RECAPITULATION.

Total amount receipts	9,986 12
" " expenses	6,671 03
Profits	3,315 09

Remarks: N. O., Feb'y 13, 1871.

J. H. MOSSOP, *Clerk.*

Trip statement st'r R. E. Lee, trip No. 20.

From New Orl's to Vicksburg & return:

Freight	7,201 54	Fuel	1,869 95
Passengers	3,672 65	Stores	1,193 88
		Wages	1,608 00
		Expenses	1,929 00
		L'ss	134 12
Total	10,874 19	Total	6,734 95

RECAPITULATION.

831 Total amount receipts	10,874 19
" " expenses	6,734 95
Profits	4,139 24

Remarks: N. O., Feb'y 20, 1875.

J. H. MOSSOP, *Clerk.*

Trip statement st'r R. E. Lee, trip No. 21.

From New Orl's to Vicksburg & return:

Freight	6,809 19	Fuel	1,880 00
Passenger	2,639 10	Stores	1,276 39
		Wages	1,642 00
		Expenses	1,942 62
		Loss	46 95
Total	9,448 29	Total	6,787 96

RECAPITULATION.

Total amount receipts	9,448 29
" " expenses	6,787 96
Profits	2,860 33

Remarks: N. O., Feb'y 27, 1871.

J. H. MOSSOP, *Clerk.*

Trip statement st'r R. E. Lee, trip No. 22.

From New Orleans to Vicksburg & return:

Freight	7,026 58	Fuel	1,866 20
Passengers	2,576 70	Stores	1,123 07
		Wages	1,581 00
		Expenses	1,905 68
		Loss	60 15
Total	9,603 28	Total	6,586 10

RECAPITULATION.

832

Total amount receipts	9,603 28
Total amount expenses	6,586 10
Profits	3,017 18

Remarks: N. O., March 6, 1871.

J. H. MOSSOP, *Clerk.*

Trip statement st'r R. E. Lee, trip No. 23.

From New Orl's to Vicksburg & return:

Freight	6,479 94	Fuel	1,737 80
Passengers	2,610 10	Stores	1,139 44
		Wages	1,584 35
		Expenses	1,989 11
		Loss	132 09
Total	9,080 04	Total	6,582 79

RECAPITULATION.

Total amount receipts	9,080 04
" " expenses	6,582 79
Profits	2,497 25

Remarks: N. O., March 13, '71.

J. H. MOSSOP, *Clerk.*

Trip statement st'r R. E. Lee, trip No. 24.

From New Orl's to Vicksburg & return:

Freight	4,467 75	Fuel	1,746 60
Passengers	2,331 00	Stores	905 93
		Wages	1,614 25
		Expenses	1,803 11
		Loss	160 51
Total	6,798 75	Total	6,230 40

RECAPITULATION.

Total amount receipts	6,798 75
" " expenses	6,230 40
Profits	548 35

833 Remarks: N. O., March 20, 1871.

J. H. MOSSOP, *Clerk.*

Trip statement st'r R. E. Lee, trip No. 25.

From New Orl's to Vicksburg & return:

Freight	4,075 56	Fuel	1,584 75
Passengers	2,325 00	Stores	971 50
		Wages	1,487 00
		Expenses	1,767 30
		L'ss	306 14
Total	6,400 56	Total	6,116 69

RECAPITULATION.

Total amount receipts	6,400 56
" " expenses	6,116 69
Profits	283 87

Remarks: N. O., March 27, 1871.

J. H. MOSSOP, *Clerk.*

Trip statement st'r R. E. Lee, trip No. 26.

From New Orl's to Vicksburg & return:

Freight	4,404 05	Fuel	1,805 50
Passengers	1,812 40	Stores	860 45
		Wages	1,429 00
		Expenses	1,321 40
		Loss	325 38
Total	6,216 45	Total	5,741 73

RECAPITULATION.

Total amount receipts	6,216 45
" " expenses	5,741 73
Profits	474 72

Remarks: N. O., April 6, 1871.

J. H. MOSSOP, *Clerk.*

834 *Statement of cost of repairs st'r R. E. Lee, referred to in deposition of Clerk Mossop.*

Cost of repairs st'r R. E. Lee, Jan'y, 1871.

Wages and expense acc't	2,000 00
Natchez Democrat	6 00
Fred. Pursen	5 00
S. L. Guin	10 00
J. V. Bursen	25 00
Telegraph dispatches	15 70
L. F. Curry	28 21
Drayage	3 00
J. M. Maloney, carpenter	96 00
F. Fink & Co	4 25
Wages paid hands & carpenter	1,235 50
A. Brown & Co	98 66
H. M. Gastrell	37 49
Wharfage	18 00
St'r Grand Era	800 00
Clark & Ivy	12 50
W. S. Poindexter	6 00
S. N. Rabb	25 03
Fire engine No. 3, Natchez	75 00
" " " 7, "	125 00
A. A. Maginnis & Son	32 50
L. F. Carrey	150 00
J. A. Downs	5 00
J. Henning	82 03
D. Roderick	4 75
A. Hauck	187 94
835 J. S. Simonds	7 00
Wilson, Fagan & Co	110 88
Bostick & Seymour	153 20
J. Tharp McDonald	212 50
Moran, Noble & Wood	72 15
Moffett & Brown	14 58
McAdam & Co	1,359 50
D. C. McCann	519 69
N. O. Wreck'g & Salvage Co	612 98
D. C. McCan	578 50
Brady & Palmer	211 55
Sam. King	328 89
Vallette Dry Dock Co	4,051 90
H. Williams	445 50
Jno. Hennessy	1,868 95

Hugh Williams	88 25
J. W. Cannon	300 00
Pillsbury & Cooper	73 26
	$16,106 74

Statement of average filed with report.

Apportionment of general and special average, st'r R. E. Lee.

General average	4,336 27
Special average	6,778 01
	11,144 28

Apportionment.

	Western Ins. Co.,	$5,000, pays		742 95
	Globe " "	5,000, "		742 95
	Commercial "	" 5,000, "		742 95
836	National "	" 3,000, "		445 80
	Eureka "	" 5,000, "		742 95
	American " "	5,000, "		742 95
	Crescent " "	2,500, "		371 47
	Fireman's " "	3,000, "		445 80
	Enterprise " "	5,000, "		742 95
	Farmer's " "	2,500, "		371 48
	Union " "	3,500, "		520 00
	Ohio Valley " "	3,000, "		445 47
	Burnett " "	2,500, "		371 47
	Owners' " "	25,000, "		3,741 76
				$11,144 28

I certify the foregoing to be a correct copy of the special and general average of the st'boat R. E. Lee on ⅜ of collision with steamer Potomac, December 21st, 1870.

Cincinnati, April 16th, 1874.

J. A. TOWNLEY, *Adj'r.*

Commissioner's draft of proposed report.

To POTOMAC (see rec., p. 444).

	Protest at Natchez, 5$; wharfage at Algiers	$10 00
	Small line, $1; telegraphing, 11.60	12 60
	35 lbs. cotton at Natchez, 7; labor, $25.50	32 50
	A. Brass nails, 75 cts.; extra labor disch'g cargo, $300	330 75
	A. Watching cargo, $100; assorting cargo, 22.50; coopering, 20	142 50
	St'r Mollie Able, freight bill from Natchez	66 50
	Southern Dry Dock Co., as per bill	2,978 13
	Liberty cap on jack-staff, 58; jack-staff, 55; brickwork, 12	125 00
837	Welding stem-band, $85; repairing wagon, 15	100 00
	Lumber for bulkhead, $100	100 00
	B. Wages of crew while in dock, as per statement	"

B. Subsistence of crew " " " " for 15 days	"
Fuel while detained at Natchez & in dock	"
C. Charter of barge while in tow of steamer, 21 days	"
C. Taking cargo of barge, 21 days	"
D. Half day's detention at Natchez	"
D. 21 day's charter of boat	"
2 tarpaulins to stop leak	80 00
Deduct overcharge of $200 (see rec., p. 437)	200 00

Claim of $3,000 for permanent damage.

NOTES.—A. Where was this cargo discharged? Was not the work performed by her crew? How many days did it occupy?

B. The collision occurred on night of 21st December, 1870. In consequence of the accident the Potomac was 24 hours longer in reaching the city than she otherwise would have been (record, p. 438). The Lee is chargeable with that time. The Potomac reached here on the 23d December, in the due course of her voyage. She was occupied one day in discharging cargo, and as she would have required that time for the purpose had no collision occurred, the
838 Lee is not chargeable with it. The Potomac went into dock on 25th December (see Ex. C, bill for crew's wages, record p. 444). On that day the Lee became chargeable for her detention, already owing her for one day. The repairs to the Potomac were entirely completed on 5th Jan'y, 1871, and she was then ready to be taken out of dock, and proceed on her intended trip, being well repaired, tight, and in riverworthy condition. (See report of inspectors, p. 268.) It is fair to presume that in two days after that (for docks are too valuable to be idle) the Potomac was at the wharf, and in the condition she would have been had she arrived there without accident, and had just discharged her cargo. The Lee was no longer responsible for her detention, for in any event the Potomac would have been compelled to remain until a return cargo was secured. The time then with which the Lee was chargeable was 15 days. I think the wages and subsistence of crew should be limited to that time. Potomac was at her wharf on 9th Jan'y. (Dep. Connor, p. 15).

839 C. What are the facts which authorize these charges?

D. There is no evidence that the Potomac could have been chartered. But her owners undoubtedly suffered loss by her detention, and are entitled to compensation. Her charter value is proved to have been $100 a day, and if her use was of that value to others, it was of equal value to her owners. $100 per day for the 15 days should be allowed.

C. The owners of the Potomac claim that she suffered permanent damage; that her seams were loosened, &c. After the repairs were (made) completed the inspectors of the underwriters, under whose directions they were made, certify that she was well repaired, tight, and in a riverworthy condition. (See p. 288.) There is no doubt that both boats were lessened in value by the collision, despite the repairs that were made. I believe the Lee's are estimated much higher than the owners do the Potomac. (Record, p. 191.) Such damage, however, is too speculative and indefinite. It is already impossible to arrive at it with any certainty.

I think it fair to offset the permanent damage to the one boat
840 against that to the other, and have done so.

This claim by the Potomac is made more than five years after the repairs were made. (For estimate of this damage see pp. 411, 422, 437).

The $7,429.51 plead in compensation by the Potomac is allowed.

The bill for the damage was made out from the books of the boat by Mr. Semple, who had no personal knowledge of them. The clerk had become insane. (See pp. 498, 495.) The vouchers were lost (p. 495).

LEE.

I propose to allow the damages as set out in Ex. A, referred to and filed with the deposition of J. H. Mossop, less the item of $1,868.95 paid to John Hennessy, viz..... $14,237 79

The detached trip statements filed with the dep. of Mossop, of 26 trips made by the Lee in the season of 1870, 1871, shows profits in the aggregate of $59,994.16 for 6½ months, commencing 29 Sept. & closing 6 Ap'l. At that rate the net average profit per trip was $2,307.50. I propose to allow that am't for the 3 trips lost, viz..... 6,922 50

21,160 29

841 The foregoing draft of proposed report of damages suffered by the two boats is submitted to counsel for the purpose of having their views pro and con. The comm'r will modify it in any respect in which it is shown to be erroneous.

J. W. G.

Exceptions to commissioner's projet of report filed before the comm'r and returned into court on 14th April, 1877.

JOHN W. CANNON
vs.
ST'R POTOMAC.

Robert S. Semple, Jno. Fink, and Jno. Shunk, owners of the steamboat Potomac, claimants and defendants, except to the evidence and depositions of Jno. W. Cannon and other witnesses: that is to say, that portion of the same wherein an attempt is made to prove alleged or probable profits which would have been made by the steamboat R. E. Lee during the time of her detention, and also before and after that time; or any alleged damage to the reputation of the steam-
842 boat Lee.

To the introduction of the same objection was made on the part of claimants and defendants, but the same was overruled and the evidence admitted, to which they excepted.

J. AD. ROZIER,
Proctor for Claimants & Defendants.

On reference to commissioner on matter of damages, the defendants & claimants in the above-entitled cause submit the following points and authorities:

1. The claimants and defendants claim to be allowed, in the way of damages sustained by the Potomac, $13,517.19. The amount claimed in the original answer and cross-libel was the sum of $8,000; by an amendment allowed by the court, and an order to the commissioner to entertain the same, the former amount is the sum of damages which they ask for.

The main items of damages are, first, repairs to the steamboat Potomac at the port of New Orleans, where she went in dock.

2. The delay of 3 weeks, during which time she could have been chartered.

843 3. Permanent injury; the strain on the boat butts and seams could not be got together as before.

4. Amount paid for general average.

5. Expenses of wages of crew and of officers, &c.

II. The Exhibit A furnishes a detailed statement of the nature and amount of the repairs, of the wages paid during the 3 weeks' detention, giving full particulars.

The repairs which were necessary, and which claimants had to disburse, amount to $2,978.13.

The boat arrived at the port of New Orleans on the 23d day of December, 1870. There she was detained three weeks. The manager of the Southern Dry Dock Company (D. H. Connor) gave his testimony; the necessity for the repairs and the actual cost are explicitely and satisfactorily shown. The sums were actually paid. Besides, in this matter (survey printed testimony, page 266, 269, and Exhibit A, 299) the testimony of R. S. Semple (495), Matilen Rusk, Capt. Shunk, (437, and Exhibit C, 444), and other officers of the Potomac, shows in the most business-like manner what had to be done to repair the damage

844 done to the boat by reason of the collision. The Potomac was a new boat, having made before only a few trips. In respect to the materials for the repairs, the rule is that there shall not, as in insurance cases, be any deduction for the new materials furnished in place of the old, because the claim of the injured party arises by the reason of the wrongful act of the party by whom the damage was occasioned, and the measure of the indemnification is not limited by any contract, but is coextensive with the amount of damage. (The Baltimore, 8 Wall., 316.)

III. The fastenings of the boat were shaken and weakened; the butts and seams could not be got together as they were before said collision; permanent injury was done to the boat.

This is an element of damages; the boat being injured or made less valuable to that amount, is a direct cause of injury to the boat which can never be remedied.

4. The amount paid for general average, $889, rendered necessary by the temporary repairs occasioned by the collision, unloading & re-

845 loading the same, was actually paid.

5. Expenditures for wages of officers and crew during detention of boat. The home port of the Potomac was Cincinnati, Ohio. She was at an immense distance from the home port and had her officers and crew engaged for the voyage. The Potomac was detained 12 hours at Natchez by reason of the collision, part of her cargo damaged.

6. The Potomac, on arrival at New Orleans, having to go to dock, was detained in the port of New Orleans 21 days. She could have been chartered for $200 per day during the time of detention. This would make the sum of $2,000 sustained by the collision.

The witnesses who prove her charter value are John C. Reno, Lewis Kates, George W. Neare.

She was a boat of the first class, entirely new, and capable of commanding such rates per day for her charter. (See dep. R. S. Semple, Joseph C. Martin, Jno. Fink, Jno. N. Shunk, Jacob Williamson, Matilon Rusk, and others in printed testimony.)

846 7. The owners of the Rob't E. Lee have set up element of loss

which cannot be allowed, according to the well-settled principles as to measure of damages in collision cases.

In the brief prepared by T. D. Lincoln, proctor for claimants, the question of this measure of damages is fully and able discussed.

We refer the honorable commissioner to the points and authorities therein contained. We will add the following observations on the subject:

No damage can be allowed for the loss of a market or the probable profits of a voyage. (3 Wheaton, 560; Smith vs. Condry, 1 Howard, 35.)

The actual damages sustained by the party at the time and place of injury is the measure of damages; profits depend on remote, uncertain, and complicated contingencies.

The claim for profits on the part of the libellant is to be disregarded.

The Lee is a regular packet running between the ports of New Orleans and Vicksburg.

847 A boat of her size and capacities, it is well established in proof, could not have been chartered during the time of her detention, after the collision.

Her regular business was the packet trade, above referred to; there was no demand for such a boat in the way of charter.

The nature of the business she was engaged in did not admit of it. (See the testimony of Capt. Leathers, Capt. Stevenson, and others, who prove that the Lee could not be chartered.)

Whilst in the case of the Potomac, being a boat making trips up the Ohio River, she was capable of being chartered. This is shown by the deposition of . This then, the amount of the charter-money, was a direct, immediate loss and a substantial, actual, existing loss, easily ascertained and computed.

Besides, the Lee chartered in her place the Magenta, for which she had contracted to pay at the rate of $800 per week; this boat being destroyed shortly afterwards, the Era was chartered in her place.

848 The Magenta is proved by Capt. Neal, Capt. Leathers, and the other witnesses on the point, nearly as good a boat, in point of capacity, as the Lee, and capable of being run to better advantage, as her expenses were not so great as the Lee's. But the Lee herself could not have been chartered; she had no charter value, owing to the special packet trade she was engaged in, for no other boat could have needed her services; so that the Lee cannot claim any charter value.

The depositions of Jno. W. Cannon and , his clerk, detailing what the Lee earned before the collision, or what she earned commencing after the time of detention, is entirely out of the question, and must, by reason of the numerous cases adjudging the measure of damages allowed in such cases, there is no foundation for such alleged damages as are claimed.

Besides, calculation would have to be made as to the annual deterioration in value of a boat. The insurance, the repairs, &c., all of which would be perplexing, uncertain, and vague.

849 We draw the attention of the commissioner to the brief of T. D. Lincoln, esq., at page 50, in which he successfully contends that from the Lee's damages must be deducted the amounts paid the libellant by his insurers.

When Capt. Cannon presented his loss to the insurance companies, and they recognized and paid it, the said insurance companies were thereby subrogated to the extent of such payment to any claim of loss he might have against the Potomac for such collision.

The subject is fully elucidated and the authorities bearing on the subject are given.

9. The repairs made to the Lee are not satisfactorily proved; the persons who made the repairs, or their superintendent, should have been made witnesses.

The necessity for the repairs, their nature, cost, &c., should have been shown on the part of the R. E. Lee. It was incumbent on the owners to prove this satisfactorily. A mere statement, on the part
850 of the witnesses sworn, that so much money was paid for repairs, will not be sufficient; they ought to be particularized.

(See testimony of John A. Townley, page 490, 493, and George McLaughlin, 528 of printed testimony.)

The R. E. Lee received $11,144.25. The insurance companies assigned to the owners of the Potomac any right and interest and all remedies and rights resulting therefrom; in other words, the Potomac is subrogated to all the rights of the insurance companies. (See page 492, printed testimony.)

If these views be correct, the libellant has no claim whatever against the defendants and claimants. He has no further interest in the question of damages, and the amount claimed by the owners of the Potomac must be allowed.

Respectfully submitted.

J. AD. ROZIER,
Proctor for Claimants & Def'ts.

Additional exceptions to the projet of commissioner's report.

1. We refer again to the fact that the R. E. Lee received
851 $11,144.25. The insurance companies assigned to the owners of the Potomac any right and interest and all remedies and rights resulting therefrom; in other words, the Potomac is subrogated to all the rights of the insurance companies. (See page 492, printed testimony, and testimony of Townley, 490 & 493, and McLaughlin, 528, and see also our points and authorities filed before the commissioner on the part of defendants & claimants.)

There is no reference made to this in the projet of a report, and we ask that the report make a statement of these facts.

We respectfully call the attention of the commissioner to this matter, and claim that the $11,144.25 should be allowed in favor of the Potomac, and as shown in brief of T. D. Lincoln, esq., where all the authorities are to be found sustaining the claim.

The commissioner is respectfully asked to pass specifically on this claim.

2. We again respectfully call the attention of the commissioner to allowance of the wages of officers and crew of the R. E. Lee,
852 and the commissioner has erred in allowing them. Wages and provisions cannot be allowed this boat while lying up, and as damages resulting to the general business of the boat, on account of their being employed by the month or otherwise and being kept idle during repairs.

This is not a proper item of damages; at least in a proceeding in rem they cannot be allowed at all. The Lee was in home port.

There is no definite allegation, besides, in the libel of the R. E. Lee as to such items.

This is a proceeding in rem for damage done the boat by the collision, and, under the allegations made in their libel, they cannot be recovered.

The crew and officers of the Lee lived on the boat without being employed; neither can their wages nor the provisions be allowed.

Besides, there is no evidence, on the part of the Lee, showing that the Lee was entitled to any such items, as we have before con-
853 tended that these allowances cannot be made merely upon the statements of the clerk of the Lee, who may have paid these amounts. There are no vouchers produced; the parties who may have been paid should have been sworn and examined.

3. The expenses of docking—there is no proof showing that the expenditures thereof were really necessary and caused by the collision. The Lee was an old boat; she no doubt needed much repairs besides what the collision required. When she was put in the dock the owners no doubt availed themselves of the opportunity to make all other repairs which her old age required.

4. The amount of supposed profits allowed are again objected to. (See our authorities.) On what ground and under what nomenclature are they allowed? If this objection should be overruled, we ask that the report be specific on this point.

Respect'y submitted.

J. AD. ROZIER,
Proctor for Claimants & Defendants.

854 *Exceptions made to the projet of the report of the hon. the commissioner in Cannon vs. Potomac, U. S. dist. c't.*

A. Extra labor discharging cargo, $300. Had to reship freight at Natchez. Costs, $66.50. (Capt. Shunk, 439.)

B. Subsistence of crew for 15 days. The detention was 3 weeks. The commissioner makes reference to the report of inspectors, but this merely certifies that the Potomac was ready, in their opinion, to be taken out of the dock on a certain day; do not state the exact day on which she was taken off.

Martin (411) says she was delayed near three weeks; Jno. Fink, same. Capt. Shunk (438): "She was delayed at New Orleans 21 days." Besides, see account to list of crew and wages paid during time of repairing Potomac, from 25th Jan., 1870, to *Jan*'y 15th, 1871, specifying exact time 3 weeks.

Williams (471): "The Potomac went over there, Algiers, on the dock, on Tuesday after Christmas, 27 Dec'r, and we were over there; it lacked 2 days of being 3 weeks. He was on board all the time of being re-
repaired (471.)

855 Connor (dockman), in answer to the interrogatory, "Were any repairs made in the port of New Orleans on Potomac between 25th Dec'r, 1871, and 15 Jan'y, 1871," answers, "There were repairs made on the Potomac in port of New Orleans between the 20th Dec'r, '70, and 15th Jan'y, '71; they were made by the Southern Dock Co." To the 3d: "I was paid the amount immediately after the work was done. There must have been paid a portion of it on 9th Jan'y, 1871."

Thus we see the leng*h*t of time; boat detained from 20th Dec'r, 1870, to Jan. 15th, 1871. (See item 7 days' demurrage, $52 per day, $364.)

The whole of the work was done on the Potomac whilst on dock. The inspectors speak of the state of the work as it stood on the 5th Jan., 1871, but when the work was actually completed they do not say; most probably they did not know.

The commissioner errs in saying that Connor testifies that the Poto-

mac was at her wharf on the 9th Jan'y, '71; we understood him to say that only a portion of the work was paid for on that day.

856 It follows that more charter-money should be allowed. The commissioner allows only $100 per day. Semple (496, 497) puts it at $300 per day. (Capt. Shunk, 438; Fink, 423.) The $100 is below the estimate of the witnesses.

The Potomac was permanently injured, made less valuble by collision; she was a new boat—not a year old, whilst the Lee was an old boat.

Capt. Fink puts the permanent damage to Potomac at $2,000 (423); Martin, 2,000; Capt. Shunk, $3,000. This is a clear case for damage, and should be allowed in favor of Potomac.

R. E. LEE.

The owners of the Lee cannot set up a claim for profits which they immagine they might have made from their use of the boat. (Blanchard Ely, 21 Wend., 345; The Amiable Nancy, 3 Wheaton, 560; L. A. Ameslad de Rue, 5 Wheaton, 389). This is all well settled. All that Mossop, clerk of the Lee, swears to are mere speculative damages or speculative profits.

857 Capt. Leathers says the Lee could not have been chartered, and he gives the reasons; he adds there is no demand for such a charter as that boat for charter use.

The Lee was a regular packet, and otherwise she was of no use.

Stevenson, who corroborates Leathers, adds: "An outside boat could not have paid expenses in the trade in which the Lee was engaged."

Capt. Wayne testifies that she was not fit for any other trade for which she was built (23). The trade was monopolized by the packets Natchez, Lee, Katie, and Pargoud. No outside boat could have paid expenses at that time by going into it. There was no use to which the Lee could be put, nor no charter-money she could earn. Thus unfit, can she recover for profits? The speculative ideas of her clerk is no basis. (See brief of T. D. Lincoln, esq., pp. 57 & 58.)

Besides, see the enormous amount which had to be expended for repairs—$30,000 at a time, amount of insurance, wear and tear of

858 the boat, great dimunition of value, &c. Upon being asked, "Were there no trips that you lost money?" "Yes; there are trips during the year that we lose money." (33). The proposed item $6,922.50 profits in favor of the Lee for three weeks, which is nothing more nor less than speculative damages, is condemned by the settled jurisprudence of the country.

Who can say that nothing would have happened to the Lee? Might she not have lost money? What accidents might not have befallen her?

It will not do to call this the worth of the use of the boat, or in the nature of the charter she might have earned. The most competent witness s say she could neither be chartered nor used for any other purpose than the packet trade, which she, in common with other boats, monopolized. An outside boat would have lost money.

Supposed loss of profits not allowable, under no guise of use, &c. (Smith vs. Coundry, 1 H., 33; Minor v. Picayune, 1 H., 564.)

Immediate and not consequental damages can be allowed

859 under the well-settled decisions; the allowance of $6,922.50 would be for mere profits which the party presumes he would have made.

The allowance proposed to be made is, strictly speaking, for profits

supposed and imagined. It is not for the use, for we have seen that there was no use for the Lee, and she could not have been chartered.

The commissioner erroneously proposes to allow $14,237.79, as set out in his Exhibit A. None of the items are proved. Take the first item—wages and expenses, $2,000. The Lee was at her home port. She had no right to keep a retinue of permanent officers and crew to continue the carrying of a packet trade at the expense of the Potomac. With the Potomac the case was different; she could not discharge her men, for she would have been left without a crew after being repaired, in this latter case being obliged to take her men back to the home port; this class of expenses is recoverable.

(Reary vs. Culbertson, 21 Penn., 507; Halderman vs. Beckwith, 4 McLean, 496.)

860 Other objectionable items—am't paid Natchez Democrat, and other persons paid sums, the use of which is not particularised.

Same objection made to $1,255.50 paid hands and carpenter, as made above.

The engine, $75 & 125, objected to. What was all that for?

Vallette Dry Dock Co., $4,051.90. Where is the proof that all this work or expense was necessitated by the fact of the collision? The Lee, it must be remembered, was an old boat; she was broken up last year; the docking was a benefit to her, beyond the damage she had sustained in the collision, far beyond the effects of a shock. Can the Potomac be forced to pay for the renovation and improvement of an old boat? There should have been introduced proof to the effect that the docking and repairs were necessitated by the collision; in the absence of proof, these items should be rejected. The Lee thus would enrich herself at the expense of the Potomac.

These items of expenditures of various kinds rest alone upon the fact that the clerk of the Lee says he paid them. The dockman
861 should have been sworn. The vouchers were not even produced; there was no excuse for their absence, for they are not said to be lost.

The mere fact of the payment of a bill does not fasten responsibility on the Potomac.

The allowance of $16,106.74 rests on no proofs, save what the clerk testifies as to the payments.

Besides, when the items are examined the most of them do not come within the true measure of damages.

We would refer the hon. commissioner to Capt. Neal's deposition. The Lee had chartered the Magenta for $800 per week during the 3 weeks. See what her capacities are described by him to be very little inferior to the Lee. She carried 4,200 bales of cotton, inferior to none except Natchez. Magenta would make more money carrying 4,200 bales of cotton than the Lee carrying 5,300; the latter more expensive to run.

The commissioner is urged to again review this deposition of Capt. Neal, which is important.

He is corroborated by testimony of Capt. Leathers.

862 But we have seen that the Lee could not have been chartered, and there was no use for her. She cannot, therefore, claim damages.

We would impress on the hon. commissioner that the libellant has

not made out his alleged claim for damages, and all the items proposed to be allowed should be rejected.

Respectfully submitted.

J. AD. ROZIER,
Proctor for Claimants & Defendants.

Order fixing report for hearing.—April 16th, 1877.

JNO. W. CANNON
vs. } 9760.
ST'R POTOMAC.

Ordered that the libellant and claimant be notified to show cause on 21 instant, at 11 a. m., why the commissioner's report on damages be not confirmed and judgment entered in accordance therewith.

Order.—Hearing continued.—April 21st, 1877.

J. W. CANNON
vs. } 9760.
ST'R POTOMAC.

863 This cause was called on the comm'r's report assessing damages.

R. H. Marr, for libellant, not present; J. A. Rozier, for the Potomac, filing exceptions.

When, after hearing proctor for claimant, it is ordered that the same be continued till the 28th instant, at 11 a. m., and that proctor for the libellant be notified thereof and of the exceptions to report by the Potomac.

Claimant's exceptions to report.—Filed 21st April, 1877.

JNO. W. CANNON
vs.
ST'R POTOMAC.

Robert S. Semple, Jno. Fink, and Jno. N. Shunk, claimants and defendants in the above-entitled cause, except to the report of J. W. Gurley, esq., U. S. comm'r under order of this court entered in this cause, and which report was filed on the 13th day of April, 1877.

FIRST EXCEPTION. They except that said report should have allowed in favor of the owners of the Potomac, these defendants and claimants herein, all of the demands, items, and amounts as detailed in the
864 exhibit marked A, introduced in evidence as a part of the deposition of R. S. Semple taken before E. T. Fries; that the amount of said Exhibit A is the sum of $13,517.19, to which amount should be added $1,000 more, to wit, the item permanent injury to the boat (the Potomac); $2,000 should be the sum of $3,000.

That the commissioner, instead of allowing this amount, he has erroneously reduced the same to the sum of $7,330.52; that the said comm'r has erroneously rejected and disallowed certain items of the said Exhibit A, and other items he has cut down; and especially the said commissioner has erroneously refused to allow the item for full charter value of steamboat Potomac for and during 21 days, amounting to $4,200, as claimed by defendants and claimants, and has erroneously

rejected the claim for permanent injury and damage to said Potomac by reason of the collision, amounting to the sum of $3,000. That, besides the said am't of $14,517.19 as hereinbefore set forth, the said claimants and defendants are entitled to the further sum of $7,429.52, as claimed and set forth in cross-libel (at p. 18 of printed record),
865 which said last-mentioned item and sum the commissioner has justly and properly allowed, under the words "by am't of insurance company's transfer, $7,429.52," all of which make the total sum of $21,946.70, which sum the commissioner in his report should have allowed in full, with interest thereon at the rate of 6 % per annum from 20th day of December, in the year 1870, until paid, and in favor of said claimants and defendants and against the said Jno. W. Cannon and the steamboat Robert E. Lee.

The proofs and depositions on file establish the demands of claimants and defendants. (Depositions of Semple, Shunk, and many others.)

2D EXCEPTION. And now proceeding to except further to the report of said comm'r, the said commissioner has failed to allow the following items in the said Exhibit A:

Wm. Harris, for hire of tarpaulins				88 40
Lewis Johnson, for rudder-work, iron				4 30
Extra wharfage at New Orl's				45 90
Labor for discharging at N. O				455 35
Assorting at N. O				17 75
Putting glass				8 25
Extra paid for watching cargo at N. O				136 50
866 Coopering				30 00
Potomac 22 days, @ $10 per day				220 00
Taking care of barge at Vicksburg				66 00
Detention of boat 14 hours at Natchez and 10 hours between Natchez and New Orleans, with full crew, passengers				500 00
Wages paid crew while boat was detained at New Orleans, as follows:				
Jno. Shunk, cap't,	21 days,	@	250	175 00
M. Derenning, cl'k,	21 "	"	125	87 50
G. H. Vanloon, cl'k,	21 "	"	75	52 50
C. D. Robertson, cl'k,	21 "	"	100	70 00
Maloney, pilot,	21 "	"	250	175 00
Eng. Hanlon, pilot,	16 "	"	250	133 33
P. H. Holland, mate,	21 "	"	100	70 00
Wm. Lynch, 2d do.	21 "	"	60	42 00
Sam. Hall, 1st eng.	21 "	"	110	77 00
P. Squires, 2d do.	21 "	"	75	52 50
Jno. Davis, striker,	21 "	"	30	21 00
M. Rusk, do.	21 "	"	30	21 00
Wm. Devenny, watchman,	21 "	"	45	31 50
J. C. Martin, carpenter,	21 "	"	60	42 00
H. Alferd, steward,	21 "	"	60	42 00
Jno. Parker, 2 do.	21 "	"	30	21 00
Wm. Jones, cabin boy,	21 "	"	18	12 60
Wm. Bessell, do.	21 "	"	20	14 00
J. Morgan, pantryman,	21 "	"	25	20 83
Th's Thornburg, do.	21 "	"	15	10 50
Jno. Mosser, cook.	21 "	"	100	70 00
J. McDavid, baker,	21 "	"	70	52 50
Laura Duggan, chambermaid	21 "	"	30	21 00
867 Anna Thompson, 2d chambermaid,	21 days,	@	15	10 50

not made out his alleged claim for damages, and all the items proposed to be allowed should be rejected.

Respectfully submitted.

J. AD. ROZIER,
Proctor for Claimants & Defendants.

Order fixing report for hearing.—April 16th, 1877.

JNO. W. CANNON
vs. } 9760.
ST'R POTOMAC.

Ordered that the libellant and claimant be notified to show cause on 21 instant, at 11 a. m., why the commissioner's report on damages be not confirmed and judgment entered in accordance therewith.

Order.—Hearing continued.—April 21st, 1877.

J. W. CANNON
vs. } 9760.
ST'R POTOMAC.

863 This cause was called on the comm'r's report assessing damages.

R. H. Marr, for libellant, not present; J. A. Rozier, for the Potomac, filing exceptions.

When, after hearing proctor for claimant, it is ordered that the same be continued till the 28th instant, at 11 a. m., and that proctor for the libellant be notified thereof and of the exceptions to report by the Potomac.

Claimant's exceptions to report.—Filed 21st April, 1877.

JNO. W. CANNON
vs.
ST'R POTOMAC.

Robert S. Semple, Jno. Fink, and Jno. N. Shunk, claimants and defendants in the above-entitled cause, except to the report of J. W. Gurley, esq., U. S. comm'r under order of this court entered in this cause, and which report was filed on the 13th day of April, 1877.

FIRST EXCEPTION. They except that said report should have allowed in favor of the owners of the Potomac, these defendants and claimants herein, all of the demands, items, and amounts as detailed in the
864 exhibit marked A, introduced in evidence as a part of the deposition of R. S. Semple taken before E. T. Fries; that the amount of said Exhibit A is the sum of $13,517.19, to which amount should be added $1,000 more, to wit, the item permanent injury to the boat (the Potomac); $2,000 should be the sum of $3,000.

That the commissioner, instead of allowing this amount, he has erroneously reduced the same to the sum of $7,330.52; that the said comm'r has erroneously rejected and disallowed certain items of the said Exhibit A, and other items he has cut down; and especially the said commissioner has erroneously refused to allow the item for full charter value of steamboat Potomac for and during 21 days, amounting to $4,200, as claimed by defendants and claimants, and has erroneously

rejected the claim for permanent injury and damage to said Potomac by reason of the collision, amounting to the sum of $3,000. That, besides the said am't of $14,517.19 as hereinbefore set forth, the said claimants and defendants are entitled to the further sum of $7,429.52, as claimed and set forth in cross-libel (at p. 18 of printed record),
865 which said last-mentioned item and sum the commissioner has justly and properly allowed, under the words "by am't of insurance company's transfer, $7,429.52," all of which make the total sum of $21,946.70, which sum the commissioner in his report should have allowed in full, with interest thereon at the rate of 6 % per annum from 20th day of December, in the year 1870, until paid, and in favor of said claimants and defendants and against the said Jno. W. Cannon and the steamboat Robert E. Lee.

The proofs and depositions on file establish the demands of claimants and defendants. (Depositions of Semple, Shunk, and many others.)

2D EXCEPTION. And now proceeding to except further to the report of said comm'r, the said commissioner has failed to allow the following items in the said Exhibit A:

Wm. Harris, for hire of tarpaulins				88 40
Lewis Johnson, for rudder-work, iron				4 30
Extra wharfage at New Orl's				45 90
Labor for discharging at N. O				455 35
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866 Coopering				30 00
Potomac 22 days, @ $10 per day				220 00
Taking care of barge at Vicksburg				66 00
Detention of boat 14 hours at Natchez and 10 hours between Natchez and New Orleans, with full crew, passengers				500 00
Wages paid crew while boat was detained at New Orleans, as follows:				
Jno. Shunk, cap't,	21 days,	@	250	175 00
M. Derenning, cl'k,	21 "	"	125	87 50
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C. D. Robertson, cl'k,	21 "	"	100	70 00
Maloney, pilot,	21 "	"	250	175 00
Eng. Hanlon, pilot,	16 "	"	250	133 33
P. H. Holland, mate,	21 "	"	100	70 00
Wm. Lynch, 2d do.	21 "	"	60	42 00
Sam. Hall, 1st eng.	21 "	"	110	77 00
P. Squires, 2d do.	21 "	"	75	52 50
Jno. Davis, striker,	21 "	"	30	21 00
M. Rusk, do.	21 "	"	30	21 00
Wm. Devenny, watchman,	21 "	"	45	31 50
J. C. Martin, carpenter,	21 "	"	60	42 00
H. Alferd, steward,	21 "	"	60	42 00
Jno. Parker, 2 do.	21 "	"	30	21 00
Wm. Jones, cabin boy,	21 "	"	18	12 60
Wm. Bessell, do.	21 "	"	20	14 00
J. Morgan, pantryman,	21 "	"	25	20 83
Th's Thornburg, do.	21 "	"	15	10 50
Jno. Mosser, cook.	21 "	"	100	70 00
J. McDavid, baker,	21 "	"	70	52 50
Laura Duggan, chambermaid	21 "	"	30	21 00
867 Anna Thompson, 2d chambermaid,	21 days,	@	15	10 50

J. Howell, deckhand,	21 "	" 35.....	28 00
8 fireman, 21 days, each @ 35.....			196 00
			1,549 20
Subsistence for 15 officers 21 days, @ 1.50.....			472 50
" " 17 men " " " 1.			357
Charter value of boat 2 d'ys, at 2.			42
Permanent injury to boat.....			3,000
			$14,517 19

That all of the said items and amounts should have been allowed by the commissioner in full, with interest thereon from the 20th day of December, 1870, until paid, and the commissioner should not have made any deduction whatever. The depositions of Semple and others prove the items.

That the said commissioner should have allowed the full amount of wages of officers and crew during the 21 days, which amount to the sum of $1,549.20, and he has erroneously reduced the amount to the sum of $914.54. (See references to the proofs in the next exceptions, & see Exhibit A, hereinbefore referred to.)

And def'ts and claimants further say that the charter value of the Potomac during 21 days of detention, amounting to the sum of $4,200, should have been allowed by the commissioner, but the commis-
868 sioner has erroneously reduced it to the sum of $1,400. The deposition of P. Holland (387), Martin (411), Fink (423), Williams (471), and others show that the detention of the Potomac existed for 3 weeks. (See also list of crew and wages paid during the time of the repairing of the Potomac, from the 20th day of December, 1870, to the 15 Jan'y, 1871, specifying the exact time 3 weeks.)

As to the value of the charter party, the same is established to be $200 per day. (See additional depositions of Shunk and Semple, taken in the matter of reference, and not found *and found* in the printed record.)

4TH EXCEPTION. The commissioner allows charter of barge in tow of Potomac at $10 per day; should have allowed for 22 days, that is to say $210. (See references heretofore made to proofs on this point.)

FIFTH EXCEPTION. The commissioner erroneously fails to allow the sum of $3,000 for permanent damages to the steamer Potomac by reason of the collision. (See depositions of Shunk and others, Martin and others.) The owners of the steamboat Potomac should be allowed in their favor the sum of $3,000 therefor.

869 6TH EXCEPTION. Claimants and defendants except to the report of the commissioner, item entitled damages to the st'r R. E. Lee, note p., costs of repairs as per Exhibit A, filed with the deposition of Mossop, $12,237.79; each, and all the items in the said Exhibit A are specially objected to:

Wages & expense ⅔.....	$2,000 00
Fred Parson.....	5 00
Natchez Democrat.....	6 00
S. L. Gence.....	10 00
J. V. Barton.....	25 00
Telegraphic dispatches.....	15 70
L. F. Carry.....	28 21
Drayage.....	3 00
Jno. Maloney, carpenter.....	96 00
F. Fink & Co.....	4 25

Wages paid hands & carpenter	1,235	50
H. M. Gatrell	37	49
Wharfage	18	
Steamer Grand Era	800	00
Clarke & Ivy	12	50
U. S. Poindexter	6	00
G. N. Rabb	25	03
Fire-engine #3, Natchez	75	00
" " #7, "	125	00
A. A. Maginnis & Sons	32	50
L. F. Garvey	150	00
J. A. Downs	50	00
J. Henning	82	03
870 D. Roderick	4	75
A. Hauck	187	94
J. G. Simonds	7	00
Wilson, Fagan & Co	110	08
Bostick & Seymour	153	20
J. Tharp McDonald	212	50
Moran, Noble & Wood	72	15
Moffett & Brown	14	58
McAdam & Co	1,359	50
D. C. McCan	519	69
N. O. Wreck'g' & Salvage Co	612	98
D. C. McCan	587	50
Brady & Palmer	211	55
Sam. King	328	89
Vallette Dry Dock Co	4,051	90
H. Williams	445	50
Jno. Hennessy	1,868	95
Hugh Williams	88	25
J. W. Cannon	300	00
Pillsbury & Cooper	73	26
	$16,106	74

Each of said items and amounts are specially excepted to.

Vouchers were called for at the reference; none were produced; no proof in case of their existence that they were lost or destroyed. The libellant is bound to produce vouchers or account for loss or destruction.

The depositions of Mossop, clerk of the Lee, is vague and
871 unsatisfactory. He is the only witness produced on the part of libellant to maintain these items; none of these items are proved, and specially first item, wages and expenses, $2,000. The steamboat R. E. Lee was at her home port; no right to keep a retinue of officers and crew, to continue the carrying on of a packet trade.

The Potomac was differently situated. The home port of the latter was at Cincinnati, Ohio. She could not discharge her men, for she would have been left without a crew, and she was bound to take her crew back to her home port.

The items am't paid Natchez Democrat and other persons, the use of which is not particularized. Same exception made to item paid hands and carpenter, $1,235.50, and also fire-engines, $125, and all the other items.

Vallette Dry Dock Co., $4,051.90. No proof that the work was done or that the expense was necessitated by reason of the collision. The

Robt. E. Lee was an old boat, broken up last year. See deposi-
872 tion of Mossop on this point. No dockman was sworn to prove alleged dockage. The repairs and dockage were chargeable, not to the collision, but to the age and bad condition of the steamer Robert E. Lee.

The attempted proofs of the items contained in the said exhibit and annexed to the deposition of Mossop rests alone on the deposition of one single witness, clerk of the Lee, and that hearsay. The mere fact of an alleged payment of bills is insufficient proof, nor do these items come within the sphere of the measure of damages in collision cases. All of these items should have been rejected by the comm'r, and the item in the report "costs of repairs, as per Exhibit A, filed with the deposition of Mossop, $12,237.79," should be stricken out and rejected.

7TH EXCEPTION.—Claimants and defendants except to that portion of the report entitled "Damages to steamer R. E. Lee;" loss of 3 trips in her established trade, $7,173.48; damages sustained by the Lee, $12,237.79. There are no allegations in the pleadings of libellant
873 which would authorize the allowance of any such supposed damages.

Besides, this claim, for alleged profits, styled by the commissioner "damages," are nothing more than mere speculative damages. This supposed loss of profits cannot be allowed; and, again, there is no proof that any profits could have been realized by the st'r Rob't E. Lee. There is no proof justifying said allowance by said commissioner on any supposed ground or cause whatever. (See depositions of Leathers, Stevenson, Wayne, and others.)

The claimants and defendants, at the reference, objected to the introduction of any proof as to speculative damages.

The whole of this item should be entirely stricken out.

Wherefore claimants and defendants pray that these exceptions be maintained.

J. AD. ROZIER,
Attorney and Proctor for Claimants and Defendants.

Cannon's exception to report.—Filed April 28th, 1877.

874 JNO. W. CANNON }
vs.
ST'R POTOMAC. }

Now comes Jno. W. Cannon, who excepts to the report of J. W. Gurley, U. S. comm'r, filed in this case, and shows that the same is erroneous in allowing to the claimants of the steamer Potomac the sum of $1,500 for the charter of said boat for the term of 15 days.

2. The bills of the Southern Dry-Dock Co. for repairs to the boat, amounting to $3,013.30.

3. Lumber for the bulkhead, the sum $40; all of which should have been rejected as being unsupported by any reliable evidence, that given being by the owners, and so contradictory as to be worthless and not entitled to credit.

Wherefore he asks that these items should be rejected, and that as thus amended the report be confirmed.

J. N. BRICKELL,
For Cannon.

Hearing & submission of report.—April 28th, 1877.

JNO. W. CANNON
vs. } 9760.
ST'R POTOMAC.

875 This cause came on again upon the commissioner's report of assessment of damages—J. N. Brickell for R. H. Marr for libellant; J. A. Rozier for the Potomac—and after hearing argument the court took time to consider.—(Extract from the minutes of 28th April, 1877.)

Judgment rendered May 8th, '77.

JOHN W. CANNON
vs. } 9760.
ST'R POTOMAC.

This cause came on to be heard on the commissioner's report assessing damages, the exceptions thereto made, and was argued by counsel.

On consideration whereof it is ordered and decreed that the exceptions be overruled and that the report be confirmed.

And whereas it appears by the said report that the damages sustained by the R. E. Lee are $19,411.27, and those of the Potomac are $7,330.52,
876 which, under the decree of the 20th February, 1874, must be equally divided. It is further adjudged and decreed that John W. Cannon, libellant, do recover from the steamer Potomac $9,705.63½, less the sum of $7,429.51, already recovered by him (the said Cannon) from the Cincinnati insurance companies, and that the owners of the Potomac, cross-libellants, recover from the steamer Rob't E. Lee the sum of $3,665.26.

And considering that both vessels were released and restored to their respective owners upon executing admiralty stipulations conditioned as the law directs.

It is further adjudged and decreed that James W. Batchelor, claimant and part owner of the steamer Potomac, as principal, and W. G. Coyle, Jno. A. Wayne, John Wilson, and R. H. Noble, as sureties on the release bond of the Potomac, be condemned, jointly and severally, to pay to John W. Cannon the sum of nine thonsand seven hundred and five 63½ dollars ($9,705.63½), less $7,429.51, recovered by said Cannon from the Cincinnati insurance companies, and that John W.
877 Cannon, owner of st'r Rob't E. Lee, as principal, and W. G. Coyle and J. Janney, as sureties on the release bond of the R. E. Lee, be condemned, jointly and severally, to pay to the owners of the steamer Potomac the sum of $3665.26 (thirty-six hundred and sixty-five $\frac{26}{100}$ dollars.)

It is further ordered that a fee of $400 be taxed to the commissioner for his report, one-half whereof, with one-half costs of suit, to be paid by the R. E. Lee and her sureties, and the other half and half costs of suit by the Potomac and her sureties.

Judgment rendered May 8th, 1877.

Judgment signed May 12th, 1877.

E. C. BILLINGS, *Judge.*

Motion for appeal by Cannon.—Filed June 7th, 1877.

CANNON
vs.
ST'R POTOMAC.

Order to argue the same on 8th June, 1877, at 11 a. m.

CANNON
vs.
POTOMAC. } 9760. June 8th, 1877.

878 After hearing proctors on both sides it is ordered that the question as to the amount of the appeal bond in this cause be left open till to-morrow at 11 a. m.

Submission.—June 9th, 1877.

CANNON
vs.
ST'R POTOMAC

After hearing proctors on both sides with reference to the question of the appeal bond, the court took time to advise.

Petition of appeal on behalf of the Potomac.—Filed June 9, '77.

JOHN W. CANNON
vs.
ST'B'T POTOMAC & J. N. SHUNK, MASTER.

The change from the circuit to the district court in the address of this petition was made by order of the judge.
Attest:
K. LOEW, *D'y Cl'k.*

To the hon. the [*circuit] dist. court of the U. S. for the [*the judicial circuit] district of Louisiana:

The petition of appeal of Robert S. Semple, Jno. Fink, John N. Shunk, James W. Batchelor, W. G. Coyle, Jno. A. Wayne, Jno. Wilson, and R. H. Noble respectfully shows:

That John W. Cannon, on or about the 5th day of December, 1871, exhibited his libel in the district court of the U. S. against the steamboat Potomac and J. N. Shunk, the master of said steamboat, in
879 person am, claiming over the sum of $50 exclusive of costs.

That the said Robert S. Semple, Jno. Fink, and John N. Shunk, late owners of the steamboat Potomac, did file their answer to the said libel of the said Cannon, praying that the said libel be dismissed with their costs in that behalf, and that they did exhibit and enter a cross-libel in the aforesaid cause against the said John W. Cannon and the said st'boat Potomac, claiming over $50 exclusive of costs, and praying that the said Cannon and the said steamboat Potomac might be condemned to pay the demands of cross-libellants aforesaid, and for further relief, as will appear by the cross-libel.

That the said cause and cross-libel came on to be heard before the said district court for the district of Louisiana, and the said district court did make its decree in the following words:

Considering that in the collision between the steamer Robert E. Lee

Erased in original.

and the Potomac both vessels were at fault, it is therefore or-
880 dered and adjudged and decreed that the damages suffered by the respective vessels, and the costs of suit herein incurred, be equally divided, and that it be referred to a commissioner, whom the court will designate hereafter, to examine and report the amount of such damages; which decree was rendered on the 20th day of February, A. D. 1871.

That under this decree a reference was had to Gurley, esq., who made a report; which report, on the 8th day of May, 1877, was confirmed by said court by its final decree in the words following: "And whereas it appears by said report that the damages sustained by the R. E. Lee are $19,411.27, and those of the Potomac 7,330.52, which, under the decree of the 20th February, 1874, must be equally divided; it is further adjudged and decreed that Jno. W. Cannon, libellant, do recover from the steamer Potomac the sum of $9,705.63, less the sum of $7,429.51, already recovered by him, the said Cannon, from the Cincinnati insurance companies; and that the owners of the Potomac,
881 cross-libellants, recover from the steamer Rob't E. Lee the sum of $3,665.26.

And considering that the vessels were released and restored to their respective owners upon executing admiralty stipulations conditioned as the law directs, it is further ordered, adjudged, and decreed that James W. Batchelor, claimant and part owner of the steamer Potomac, as principal, and W. G. Coyle, John A. Wayne, Jno. Wilson, and R. H. Noble, as sureties on the release bond of the Potomac, be condemned, jointly and severally, to John W. Cannon the sum of $9,705.63, less 7,429.51, received by said Cannon from the Cincinnati insurance companies; and that John W. Cannon, owner of the st'r Rob't E. Lee, as principal, and W. G. Coyle and J. Janney, as sureties on the release bond of the R. E. Lee, be condemned, jointly and severally, to pay to the owners of the steamer Potomac the sum of $3,665.26.

It is further ordered that a fee of $400 be taxed to the commissioner for his report, one-half whereof, with one-half costs of same, to
882 be paid by the R. E. Lee, and the other half and half costs of suit by the Potomac and her sureties."

And these appellants are advised and insist that the decree rendered on the 20th day of February, A. D. 1870, was erroneous, inasmuch as the steamboat Rob't E. Lee was wholly in fault, and the said steamboat Potomac was not in fault, and the libel of said Jno. W. Cannon should have been dismissed and the decree should have been in favor of the said steamboat Potomac, and condemning the said Rob't E. Lee to pay to the said Potomac all the damages sustained by her, and the cross-libel and supplemental-libel of these appellants should have been maintained in full, and the said Cannon should have been condemned to pay the full amount claimed in said cross-libel and supplemental-libel.

And these appellants, for these and other reasons, appeal from the decrees rendered on the 20th day of February, A. D. 1870, and also from the decree rendered on the cross-libel and supplemental-
883 libel on the 8th day of May, A. D. 1877.

J. A. ROZIER,
Proctor for Appellants.

Rule to accept surety on appeal bond.—Filed 9th June, 1877.

CANNON
vs.
POTOMAC.

On motion of J. A. Rozier, proctor for Robert S. Semple, John Fink, Jno. N. Shunk, James W. Batchelor, W. G. Coy'e, Jno. A. Wayne, Jno. Wilson, and R. H. Noble, having presented and filed a petition for an appeal in the above-entitled cause, and offering a bond with Jesse K. Bell as surety on the appeal bond, a person residing in the city of New Orleans, and who is a merchant doing business in the city of New Orleans,

It is ordered that Jno. W. Cannon, the libellant, show cause, on the 13th inst., at 11 a. m., why the said Jesse K. Bell should not be accepted as a surety on said appeal bond.

Supplemental petition of appeal by the Potomac.—Filed June 11th, 1877.

884 JNO. W. CANNON
vs. 9760.
ST'R POTOMAC.

To the hon. the district court of the U. S. for the district of Louisiana:

The supplemental petition of appeal of Robert S. Semple, Jno. Fink, Jno. N. Shunk, James W. Batchelor, W. G. Coyle, John A. Wayne, Jno. Wilson, and R. H. Noble respectfully shows:

That the original petition of appeal is addressed to the circuit court of the U. S., 5th judicial circuit, and should have been addressed to this honorable court, and appellants ask to make the correction.

That through inadvertance their original petition of appeal herein, at page 2, reads as follows: "A cross-libel in the aforesaid cause against the said John W. Cannon and the said steamboat Potomac, claiming over $50, exclusive of costs, and praying that the said Cannon and the said steamboat Potomac might be condemned to pay the de-
885 mands of cross-libellants aforesaid for further relief, as will appear by said cross-libel." That that portion, at said page, should read as follows:

"A cross-libel in the aforesaid cause against the said John W. Cannon and the steamboat Robert E. Lee, claiming over $50, exclusive of costs, and praying that the said Cannon and the steamboat Robert E. Lee might be condemned to pay the demands of the cross-libellants aforesaid, and for further relief, as well as appear by the said cross-libel."

And at page 5 the said original petition reads: "and insist that the decree rendered on the 20th day of February, 1870, was erroneous;" and that the same should read: "and insist that the decree rendered on the 20th of February, A. D. 1874;" and that portion of said page 5, "and these appellants, for these and other reasons, appeal from the decrees rendered on the 20th of February, A. D. 1870," that the same should read: "and these appellants, for these and other reasons, appeal from the decree rendered on the 20th day of February, 1874."

Appellants ask to correct said errors, and they accordingly
886 make said corrections, and ask leave to file this supplemental petition of appeal.

And these appellants appeal from the decrees rendered on the 20th

day of February, in the year 1874, and from the decree rendered on the 8th day of May, in the year 1877, and also from the same decree rendered on the cross-libel, and supplemental-libel, on the 8th day of May, in the year 1877, and make this their cross-appeal from the aforesaid decrees, and appellants, tendering a bond according to law, ask that this appeal be a supersedeas and stay execution.

J. AD. ROZIER,
Proctor for Appellants.

Order allowing appeal to Potomac.

Let this supplemental petition of appeal be filed, and let the appeal prayed for be granted, to operate as a supersedeas, returnable to the circuit court of the United States, 5th circuit and district of Louisiana, on the 1st Monday of November, 1877, the appellants giving bond
887 in the sum of $1,000, with surety, according to law.
June 11th, 1877.

EDWARD C. BILLINGS, *Judge.*

Order allowing appeal to Cannon.

J. W. CANNON
vs. } 9760.
ST'R POTOMAC.

Ordered that the motion for appeal filed by Jno. W. Cannon on 7th instant, be allowed; and the same is as follows:

On motion of B. Egan, proctor for Jno. W. Cannon, libellant in the above-entitled cause and W. G. Coyle and John Janney, sureties on his bond, to respond to the claimants in cross-libel; and on suggesting to the court that they are informed and believe that there is error to their prejudice in the final judgment or decree rendered in the above cause on the 20th of February, 1874, and also on the 8th of May, 1877; that they are aggrieved by said final judgment, or decree, and are desirous of taking a suspensive appeal therefrom to the hon-
888 orable circuit court of the U. S. for the 5th circuit and district of Louisiana.

It is further ordered by the court that Jno. W. Cannon, libellant in the above cause, and W. G. Coyle and John J. Janney, sureties on his bond, be allowed a suspensive appeal, with supersedeas, from the above final judgment, or decree, returnable to the hon. circuit court of the U. S. for the 5th circuit and district of Louisiana, on the 1st Monday of November, 1877, on giving bond and security, conditioned according to law, in the sum of $3,000, upon notice in accordance with the rules of this court.

Order reducing bond to $1,000, *June* 13*th*, 1877.

J. W. CANNON
vs.
ST'R POTOMAC.

Considering that the libellant, Cannon, has already given bond and security to respond in damages claimed by the Potomac in cross-libel, and that such bond is on file in this court:

Ordered that the amount of bond required by the order of 11th

889 instant, to operate as a supersedeas, be reduced to $1,000, and that in that respect said order be amended.

Order accepting surety for Potomac, June 13, '77.

JNO. W. CANNON
vs.
ST'R POTOMAC.

The proctor for libellant, Cannon, expressing himself satisfied with the sureties on the appeal bond for the Potomac, it was ordered that said bond be filed and accepted.

Appeal bond.

UNITED STATES OF AMERICA,
District of Louisiana:

District court of the United States. In admiralty.

JNO. W. CANNON
vs.
STEAMBOAT POTOMAC & J N. SHUNK, MASTER. } No. 9760.

Know all men by these presents that we, Robert S. Semple, John Fink, Jno. N. Shunk, James W. Batchelor, W. G. Coyle, Jno. A. Wayne, Jno. Wilson, and R. H. Noble, as principals, and Jesse K. Bell,
890 as surety, are held and firmly bound unto Jno. W. Cannon, owner and master of the steamboat Robert E. Lee, in the sum of one thousand dollars, to be paid to the said John W. Cannon; for the payment of which, well and truly to be made, in lawful money of the United States, we bind ourselves, and each of us, our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated at New Orleans the 14th day of June, 1877.

Whereas the above-named Robert S. Semple, John Fink, John N. Shunk, Jas. W. Batchelor, W. G. Coyle, Jno. A. Wayne, R. H. Noble, and Jno. Wilson have appealed to the next term of the circuit court of the United States for the 5th circuit and district of Louisiana, from the decree rendered on the 20th day of February, A. D. 1874, and from a final judgment of the district court of the United States for said district, rendered against them on the 8th day of May, 1877, and signed on the 12th day of May, 1877, in the above-entitled cause, on the libel of the said John W. Cannon, and on the cross-libel and supple-
891 mental-libel in said cause.

Now, therefore, the condition of this obligation is such that if the above-named appellants shall prosecute their appeal to effect, and answer all damages and costs, and satisfy whatever judgment may be rendered against them if they fail to make their appeal good, then this

obligation to be void; otherwise the same shall be and remain in full force and effect.

ROBERT S. SEMPLE, [SEAL.]
By his proctor, J. AD. ROZIER.
JOHN FINK, [SEAL.]
By his proctor, J. AD. ROZIER.
JOHN N. SHUNK, [SEAL.]
By his proctor, J. AD. ROZIER.
JAMES W. BATCHELOR, [SEAL.]
By his proctor, J. AD. ROZIER.
JOHN A. WAYNE. [SEAL.]
JOHN WILSON. [SEAL.]
R. H. NOBLE, [SEAL.]
By his proctor, J. AD. ROZIER.
J. K. BELL. [SEAL.]

Signed, sealed, & delivered in the presence of—
J. AD. ROZIER.

No objection to the surety on this bond.

B. EGAN,
Proctor.

Bond approved by counsel.

EDWARD C. BILLINGS.

892 *Appeal bond.*

UNITED STATES OF AMERICA,
District of Louisiana:

District court of the United States. In admiralty.

JNO. W. CANNON
vs.
STEAMER POTOMAC & JNO. N. SHUNK, master. } No. 9760.

Know all men by these presents that we, John W. Cannon, John Janney, and Wm. G. Coyle, as principals, and Edward Conery, as surety, are held and firmly bound unto Robert S. Semple, John Fink, and John N. Shunk in the sum of one thousand dollars, to be paid to the said Robert S. Semple, Jno. Fink, and Jno. N. Shunk; for the payment of which, well and truly to be made, in lawful money of the United States, we bind ourselves, and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents, sealed with our seals, and dated at New Orleans the 14th day of June, 1877.

Whereas the above-named Jno. W. Cannon, Jno. Janney, and
893 W. G. Coyle have appealed to the next term of the circuit court of the United States for the 5th circuit and district of Louisiana, from a final judgment of the district court of the United States for said district, rendered against them on the 20th day of February, 1874, and 8th May, 1877, and signed on the 12th day of May, 1877, in the above-entitled cause.

Now, therefore, the condition of this obligation is such that if the above-named appellants shall prosecute their appeal to effect, and answer

all damages and costs, and satisfy whatever judgment may be rendered against them if they fail to make their appeal good, then this obligation to be void; otherwise the same shall be and remain in full force and effect.

J. W. CANNON. [SEAL.]
J. JANNEY. [SEAL.]
W. G. COYLE. [SEAL.]
E. CONERY. [SEAL.]

Signed, sealed, & delivered in the presence of—

No objection to surety.

J. AD. ROZIER,
Proctor.

14 JUNE, 1877.

Bond approved by counsel.

EDWARD C. BILLINGS, *Judge.*

894 *Appeal bond.*

UNITED STATES OF AMERICA,
District of Louisiana:

District court of the United States. In admiralty.

JNO. W. CANNON
vs.
STEAMER POTOMAC & JNO. N. SHUNK, MASTER, } No. 9760.

Know all men by these presents that we, Robert S. Semple, John Fink, Jno. N. Shunk, James W. Batchelor, John A. Wayne, Jno. Wilson, and R. H. Noble, as principals, and Jesse K. Bell, as surety, are held and firmly bound unto W. G. Coyle and J. Janney in the sum of one thousand dollars, to be paid to the said W. G. Coyle and J. Janney; for which payment, well and truly to be made, in lawful money of the United States, we bind ourselves and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly, by these presents, sealed with our seals, and dated at New Orleans the day of June, 1877.

Whereas the above-named Robert S. Semple, Jno. Fink, Jno.
895 N. Shunk, James W. Batchelor, John A. Wayne, Jno. Wilson, and R. H. Noble have appealed to the next term of the circuit court of the United States for the 5th circuit and district of Louisiana, from the decree rendered on the 20th February, 1874, and from a final judgment of the district court of the United States for said district, rendered against them on the 8th day of May, 1877, and signed on the 12th day of May, 1877, in the above-entitled cause, on the libel of the said Jno. W. Cannon, and on the cross-libel and supplemental-libel in said cause:

Now, therefore, the condition of this obligation is such that, if the above-named appellants shall prosecute their appeal to effect and answer all damages and costs, and satisfy whatever judgment may be rendered against them if they fail to make their appeal good, then this

obligation to be void; otherwise the same shall be and remain in full force and effect.

ROBERT S. SEMPLE. [SEAL.]
By his proctor, J. AD. ROZIER.
JOHN FINK, [SEAL.]
By his proctor, J. AD. ROZIER.
JAMES W. BATCHELOR, [SEAL.]
896 By his proctor, J. AD. ROZIER.
R. H. NOBLE, [SEAL.]
By his proctor, J. AD. ROZIER.
JNO. WILSON. [SEAL.]
JOHN A. WAYNE. [SEAL.]
J. K. BELL. [SEAL.]

Signed, sealed & delivered in the presence of—
J. AD. ROZIER.

Approved.

EDWARD C. BILLINGS.

District court of the U. S. for the district of Louisiana.

I certify that the foregoing 273 pages manuscript, together with the printed record, consisting of 669 pages, marked Part First, A, do contain and form a correct and complete transcript of the original record in the matter of Jno. W. Cannon vs. St'r Potomac and Jno. N. Shunk, master, No. 9760 of the docket, embracing all proceedings had, documents filed, and evidence adduced on the trial of said cause.

In faith whereof I hereto set my hand and the seal of our said court at New Orleans, this 21st July, A. D. 1877.

[SEAL.] (Signed) K. LOEW,
D'y Clerk.

897 *Citation of appeal.*

United States district court, district of Louisiana.

JNO. W. CANNON
vs.
ST'B'T POTOMAC & J. N. SHUNK, MASTER. } No. 9760.

The United States of America to W. G. Coyle, greeting:

You are hereby cited and admonished to be and appear before the circuit court of the United States for the 5th circuit and district of Louisiana, at its next term, to be holden in the city of New Orleans, State of Louisiana, to answer the appeal taken by claimants & owners st'r Potomac in this cause, and that you show cause, then and there, if any there be, why the judgment rendered against the said claimants & owners on 20th Febr'y, 1874, and 8th May, 1877, should not be corrected, and why speedy justice should not be done in that behalf.

898 Witness the honorable E. C. Billings, judge, this 14th June, in the year of our Lord 1877, and the 101st of the American Independence.

[SEAL.] (Signed) EDWARD C. BILLINGS, *Judge.*

all damages and costs, and satisfy whatever judgment may be rendered against them if they fail to make their appeal good, then this obligation to be void; otherwise the same shall be and remain in full force and effect.

J. W. CANNON. [SEAL.]
J. JANNEY. [SEAL.]
W. G. COYLE. [SEAL.]
E. CONERY. [SEAL.]

Signed, sealed, & delivered in the presence of—

No objection to surety.

J. AD. ROZIER,
Proctor.

14 JUNE, 1877.

Bond approved by counsel.

EDWARD C. BILLINGS, *Judge.*

894 *Appeal bond.*

UNITED STATES OF AMERICA,
District of Louisiana:

District court of the United States. In admiralty.

JNO. W. CANNON
vs.
STEAMER POTOMAC & JNO. N. SHUNK, MASTER, } No. 9760.

Know all men by these presents that we, Robert S. Semple, John Fink, Jno. N. Shunk, James W. Batchelor, John A. Wayne, Jno. Wilson, and R. H. Noble, as principals, and Jesse K. Bell, as surety, are held and firmly bound unto W. G. Coyle and J. Janney in the sum of one thousand dollars, to be paid to the said W. G. Coyle and J. Janney; for which payment, well and truly to be made, in lawful money of the United States, we bind ourselves and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly, by these presents, sealed with our seals, and dated at New Orleans the day of June, 1877.

Whereas the above-named Robert S. Semple, Jno. Fink, Jno.
895 N. Shunk, James W. Batchelor, John A. Wayne, Jno. Wilson, and R. H. Noble have appealed to the next term of the circuit court of the United States for the 5th circuit and district of Louisiana, from the decree rendered on the 20th February, 1874, and from a final judgment of the district court of the United States for said district, rendered against them on the 8th day of May, 1877, and signed on the 12th day of May, 1877, in the above-entitled cause, on the libel of the said Jno. W. Cannon, and on the cross-libel and supplemental-libel in said cause:

Now, therefore, the condition of this obligation is such that, if the above-named appellants shall prosecute their appeal to effect and answer all damages and costs, and satisfy whatever judgment may be rendered against them if they fail to make their appeal good, then this

obligation to be void; otherwise the same shall be and remain in full force and effect.

ROBERT S. SEMPLE. [SEAL.]
By his proctor, J. AD. ROZIER.
JOHN FINK, [SEAL.]
By his proctor, J. AD. ROZIER.
JAMES W. BATCHELOR, [SEAL.]
896 By his proctor, J. AD. ROZIER.
R. H. NOBLE, [SEAL.]
By his proctor, J. AD. ROZIER.
JNO. WILSON. [SEAL.]
JOHN A. WAYNE. [SEAL.]
J. K. BELL. [SEAL.]

Signed, sealed & delivered in the presence of—
J. AD. ROZIER.

Approved.

EDWARD C. BILLINGS.

District court of the U. S. for the district of Louisiana.

I certify that the foregoing 273 pages manuscript, together with the printed record, consisting of 669 pages, marked Part First, A, do contain and form a correct and complete transcript of the original record in the matter of Jno. W. Cannon vs. St'r Potomac and Jno. N. Shunk, master, No. 9760 of the docket, embracing all proceedings had, documents filed, and evidence adduced on the trial of said cause.

In faith whereof I hereto set my hand and the seal of our said court at New Orleans, this 21st July, A. D. 1877.

[SEAL.] (Signed) K. LOEW,
D'y Clerk.

897 *Citation of appeal.*

United States district court, district of Louisiana.

JNO. W. CANNON
vs.
ST'B'T POTOMAC & J. N. SHUNK, MASTER. } No. 9760.

The United States of America to W. G. Coyle, greeting:

You are hereby cited and admonished to be and appear before the circuit court of the United States for the 5th circuit and district of Louisiana, at its next term, to be holden in the city of New Orleans, State of Louisiana, to answer the appeal taken by claimants & owners st'r Potomac in this cause, and that you show cause, then and there, if any there be, why the judgment rendered against the said claimants & owners on 20th Febr'y, 1874, and 8th May, 1877, should not be corrected, and why speedy justice should not be done in that behalf.

898 Witness the honorable E. C. Billings, judge, this 14th June, in the year of our Lord 1877, and the 101st of the American Independence.

[SEAL.] (Signed) EDWARD C. BILLINGS, *Judge.*

Marshal's return.

Received June 15th, 1877, and on the 21st day of June, 1877, served a copy of within citation of appeal on W. G. Coyle, by handing the same to him in person in this city.

(Signed) DAN. A. ROSE.

Daniel A. Rose, being duly sworn, deposes and says, that on the 21st day of June, 1877, he served a copy of the within citation of appeal on W. G. Coyle, by handing the same to him in person, in the city of New Orleans, parish of Orleans and State of Louisiana.

DAN. A. ROSE,
D'y U. S. Marshal.

Sworn to and subscribed before me this 23d June, 1877.

(Signed) F. B. VINOT,
U. S. Comm'r.

Citation of appeal.

United States district court, district of Louisiana.

899 JNO. W. CANNON *vs.* ST'R POTOMAC. } No. 9760.

The United States of America to Jno. W. Cannon, greeting:

You are hereby cited and admonished to be and appear before the circuit court of the United States for the 5th circuit and district of Louisiana, at its next term, to be holden in the city of New Orleans, State of Louisiana, to answer the appeal taken by claimants and owners st'r Potomac in this cause, and that you show cause, then and there, if any there be, why the judgment rendered against the said claimants and owners on 20th Febr'y, 1874, and 8th May, 1877, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Edward C. Billings, judge, this 14th June, in the year of our Lord 1877, and the 101st of the American Independence.

[SEAL.] (Signed) EDWARD C. BILLINGS, *Judge.*

900 *Marshal's return.*

Received June 15th, 1877, by the U. S. marshal, and on the 19th day of June, 1877, served in the city of New Orleans, State of Louisiana, by delivering a copy of within citation to Bentinck Egan, in person, the proctor and attorney of John W. Cannon, the appellee; the said Cannon residing and being domiciled out of the State of Louisiana, and he being absent.

New Orleans, June 20th, 1877.

(Signed) J. WHARTON,
U. S. Marshal.
By DAN. A. ROSE,
D'y U. S. Marshal.

Daniel A. Rose, being sworn, deposes and says, that on the 19th day of June, A. D. 1877, in the city of New Orleans, parish of Orleans and State of Louisiana, he served a copy of the within citation in this cause, by delivering the said copy of citation to Bentinck Egan in per-

son, the said Cannon residing and being domiciled out of the State of Louisiana, and being absent, as will appear by my official return herein.

(Signed) DAN A. ROSE,
D'y U. S. Marshal.

901 Sworn to & subscribed before me this 20th June, 1877.

(Signed) K. LOEW,
Com. C. C.

Citation of appeal.

United States district court, district of Louisiana.

JNO. W. CANNON
vs.
ST'R POTOMAC & J. N. SHUNK, MASTER. } No. 9760.

The United States of America to Jno. Janney, greeting:

You are hereby cited and admonished to be and appear before the circuit court of the United States for the 5th circuit and district of Louisiana, at its next term, to be holden in the city of New Orleans, State of Louisiana, to answer the appeal taken by the claimants and owners, s'tr Potomac in this cause, and that you show cause, then and there, if any there be, why the judgment rendered against the said claimants and owners on 20th Feb'y, 1874, and 8th May, 1877,
902 should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable E. C. Billings, judge, this 14th June, in the year of our Lord 1877, and the 101st of the American Independence.

[SEAL.] (Signed) EDWARD C. BILLINGS, *Judge.*

Marshal's return.

Received June 15th, 1877, by the U. S. marshal, and on the 16th day of June, 1877, served a copy of within citation of appeal on John Janney, by handing the same to him in person.

(Signed) DAN. A. ROSE,
D'y U. S. Marshal.

Daniel A. Rose, being duly sworn, deposes and says, that on the 16th day of June, 1877, he served a copy of the within citation of appeal on J. Janney, by handing the same to him in person, in the city of New Orleans, parish of Orleans and State of Louisiana.

(Signed) DAN. A. ROSE.

Sworn to & subscribed before me this 20 June, 1877.

(Signed) K. LOEW,
Com'r C. C.

903 *Alias citation of appeal.*

United States district court, district of Louisiana.

JNO. W. CANNON
vs.
STEAMBOAT POTOMAC & JOHN A. SHUNK, master. } No. 9760.

The United States of America to W. G. Coyle, greeting:

You are hereby cited and admonished to be and appear before the circuit court of the United States for the 5th circuit and district of

Louisiana, at its next term, to be holden in the city of New Orleans, State of Louisiana, to answer the appeal taken by Robert S. Semple, John Fink, John N. Shunk, James W. Batchelor, W. G. Coyle, John A. Wayne, John Wilson, and R. H. Noble, in this cause, and that you show cause, then and there, if any there be, why the judgment rendered against the said Robert S. Semple, John Fink, John N. Shunk, James W. Batchelor, W. G. Coyle, John A. Wayne, John Wilson, and
904 R. H. Noble, on 20th Feb'y, 1874, and 8th May, 1877, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable E. C. Billings, judge, this 16th June, in the year of our Lord 1877, and the 101st of the American Independence.

[SEAL.] (Signed) EDWARD C. BILLINGS, *Judge.*

Marshal's return.

Received June 16th, 1877, by the U. S. marshal, and on the 21st day of June, 1877, served a copy of within citation of appeal on W. G. Coyle, by handing the same to him in person in this city.

(Signed) DAN. A. ROSE,
D'y U. S. Marshal.

Daniel A. Rose, being duly sworn, deposes and says, that on the 21st day of June, 1877, he served a copy of the within citation of appeal on W. G. Coyle, by handing the same to him in person in the city of New Orleans, parish of Orleans and State of Louisiana.

(Signed) DAN. A. ROSE,
D'y U. S. Marshal.

905 Sworn to & subscribed before me this 23d June, 1877.

(Signed) F. B. VINOT,
U. S. Comm'r.

Alias citation of appeal.

United States district court, district of Louisiana.

JOHN W. CANNON
vs.
STEAMBOAT POTOMAC & J. N. SHUNK, MASTER. } No. 9760.

The United States of America to J. Janney, greeting;

You are hereby cited and admonished to be and appear before the circuit court of the United States for the 5th circuit and district of Louisiana, at its next term, to be holden in the city of New Orleans, State of Louisiana, to answer the appeal taken by Robert S. Semple, John Fink, John N. Shunk, James W. Batchelor, W. G. Coyle, John A. Wayne, John Wilson, and R. H. Noble in this cause, and that you show cause, then and there, if any there be, why the judgment
906 rendered against the said Robert S. Semple, John Fink, John N. Shunk, James W. Batchelor, W. G. Coyle, John A. Wayne, John Wilson, and R. H. Noble, on 20th Febr'y, 1874, and 8th May, 1877, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable E. C. Billings, judge, this 16th June, in the year of our Lord 1877, and the 101st of the American Independence.
[SEAL.] (Signed) EDWARD C. BILLINGS, *Judge.*

Marshal's return.

Received June 16th, 1877, by the U. S. marshal, and on the 16th day of June, 1877, served a copy of within citation of appeal on John Janney, by handing the same to him in person in this city.
(Signed) DAN. A. ROSE,
D'y U. S. Marshal.

Daniel A Rose, being duly sworn, deposes and says, that on the 16th day of June, 1877, he served a copy of the within citation of appeal on J. Janney, by handing the same to him in person, in the city
907 of New Orleans, parish of Orleans and State of Louisiana.
(Signed) DAN. A. ROSE,
D'y U. S. Marshal.

Sworn to & subscribed before me this 20th June, 1877.
(Signed) K. LOEW,
Com'r C. C.

Alias citation of appeal.

United States district court, district of Louisiana.

JOHN W. CANNON
vs.
STEAMBOAT POTOMAC & J. N. SHUNK, MASTER. } No. 9760.

The United States of America to John W. Cannon, greeting:
You are hereby cited and admonished to be and appear before the circuit court of the United States for the 5th circuit and district of Louisiana, at its next term, to be holden in the city of New Orleans, State of Louisiana, to answer the appeal taken by Robert S. Semple, John Fink, John N. Shunk, James W. Batchelor, W. G. Coyle,
908 John A. Wayne, John Wilson, and R. H. Noble in this cause, and that you show cause, then and there, if any there be, why the judgment rendered against the said Robert S. Semple, John Fink, John N. Shunk, James W. Batchelor, W. G. Coyle, John A. Wayne, John Wilson, and R. H. Noble, on 20th Febr'y, 1874, and 8th May, 1877, should not be corrected, and why speedy justice should not be done to the parties in that behalf.
Witness the honorable E. C. Billings, judge, this 16th June, in the year of our Lord 1877, and the 101st of the American Independence.
[SEAL.] (Signed) EDWARD C. BILLINGS, *Judge.*

Marshal's return.

Received June 16th, 1877, by the U. S. marshal, and on the 19th day of June, 1877, served in the city of New Orleans, State of Louisiana, by delivering a copy of the within citation to Bentinck Egan, in person, the proctor and attorney of John W. Cannon, the appellee, the said

Cannon residing and being domiciled out of the State of Louisiana, and he being absent.

909 New Orleans, June 20th, 1877.

(Signed) J. WHARTON,
U. S. Marshal.
By DAN. A. ROSE.
D'y U. S. Marshal.

Daniel A. Rose, being sworn, deposes and says, that on the 19th day of June, A. D. 1877, in the city of New Orleans, parish of Orleans, and State of Louisiana, he served a copy of the within citation in this cause, by delivering the said copy of citation to Bentinck Egan, in person, the said Cannon residing and being domiciled out of the State of Louisiana and being absent, as will appear by my official return herein.

(Signed) DAN. A. ROSE,
D'y U. S. Marshal.

Sworn to & subscribed before me this 20th June, 1877.

(Signed) K. LOEW,
Com'r C. C.

Agreement attached to transcript.

JOHN W. CANNON
vs.
STEAMER POTOMAC & J. N. SHUNK, MASTER. } U. S. district court.

910 This agreement witnesseth, that whereas John W. Cannon, the libellant in above cause, and the sureties on his bond have appealed from the decree rendered on the 8th day of May, 1877, in the above cause; and whereas Robert S. Semple, John Fink, John N. Shunk, and James W. Batchelor, the claimants of the steamboat Potomac, and their sureties, have also taken a cross-appeal from the same decree, and the decrees in said cause:

Now, therefore, in order to avoid unnecessary expense, we agree that the clerk of the United States court do make but one transcript for both appeals; that the printed record be made use of without copying, and that our respective parties will each advance one-half of the costs of the said transcript, and the expenses of filing the same in the circuit court; that is, John W. Cannon, and the parties appellant with him, advancing one-half, and the claimants of the Potomac, and the parties with them, advancing the other half, without prejudice of reclaiming the same under any final decree that may be rendered.

911 (Signed) BENTINCK EGAN,
Proctor for John W. Cannon and Sureties, Appellant.
J. AD. ROZIER,
Proctor.

JULY 5th, 1877.

Motion & order.—Case assigned for hearing.—Extract from the minutes, November term, 1877.

NEW ORLEANS, *Friday, Jan'y 11th,* 1878.

Court met pursuant to adjournment. Present, Hon. W. B. Woods, circuit judge.

J. W. CANNON
vs.
ST'R POTOMAC, &C. } No. 8290.

On motion of J. Ad. Rozier, proctor for st'r Potomac, &c., it is ordered

that the cause be assigned for hearing on Monday, 21st instant, at 11 a. m., and that Bentinck Egan, esq., be notified hereof.

Hearing & submission of cause.—Extract from the minutes, April term 1878.

912 NEW ORLEANS, *Tuesday, May 21st*, 1878.

Court met pursuant to adjournment. Present: Hon. J. P. Bradley, asso. justice Sup. Court.

JNO. W. CANNON *vs.* ST'R POTOMAC & AL. } No. 8290.

This cause came on to be heard on the transcript of the record from the district court of the U. S. for this district, and having been argued by B. Egan, for John W. Cannon, and J. Ad. Rozier for claimants st'r Potomac et al., the court took time to consider.

Finding of facts, conclusions of law and decree.—Entered and filed February 28th, 1879, *nunc pro tunc, as of date 27th May*, 1878.

JNO. W. CANNON *vs.* ST'R POTOMAC ET AL. } No. 8290.

Ordered that the finding of facts, conclusions of law, and decree in above case, by his honor, Joseph P. Bradley, associate justice
913 Supreme Court United States and circuit justice, be filed and entered, nunc pro tunc, as of date 27th May, 1878, reserving the respondent's right to an appeal with supersede as to the Supreme Court of the United States; and they are in the words and figures following, to wit:

Circuit court of the United States for the district of Louisiana. In admiralty.

JOHN W. CANNON, LIBELLANT, *and* THE STEAMER POTOMAC AND OTHERS, RESPONDENTS. }

On appeal from the district court of the United States for said district.

This case came on to be heard on the pleadings and evidence in the transcript of the record from the district court, and was argued by counsel for the parties, and the court, on consideration thereof, and being fully advised in the premises, finds the following facts and conclusions of law:

That the steamboat, Robert E. Lee, a large vessel of more than 900 tons burden, belonging to the libellant, John W. Cannon, left
914 New Orleans at about 5 p. m. on the evening of Tuesday, the 20th day of December, 1870, with a number of passengers and some freight bound on one of her regular weekly trips, on a voyage to Vicksburg, Mississippi, and intermediate landings.

That she arrived at the wharf-boat at Natchez, Mississippi, shortly after ten o'clock at night of the 21st of December, 1870, and left there

a few minutes before 12 o'clock the same night, and, after straightening up in the river, was proceeding up the Natchez or Mississippi side, at about one-third of the way out from that bank, leaving about two-thirds of the river to her left, and when about the distance of from three-fourths of a mile to a mile above the stationary wharf-boat at Natchez, a collision occurred between her and the steamboat Potomac, belonging to the claimants, which was at that time bound on a voyage down the river from Cincinnati to New Orleans, loaded with freight and passengers. The Potomac was a large steamboat, of 500 tons burden, and was, at the time, loaded down so deeply in the water that her
915 guards were considerably lower than those of the R. E. Lee, and when the two vessels came together, said guards ran under those of the Lee.

Both vessels, just before the collision, were following the general direction of the channel, the R. E. Lee going up the river and the Potomac coming down, and both of them were on the Mississippi or easterly side of the channel, and they approached each other nearly head on.

Neither boat gave any signal that was heard by the other until just before the collision, too late to avoid it, and when they were within three or four hundred feet of each other, and neither boat gave any signal to indicate the way she would pass the other until they were much less than eight hundred yards apart.

Before striking, the R. E. Lee ported her helm, and the Potomac starboarded hers (at the same time giving the signals corresponding to such action), thus both turning towar's the Mississippi shore,
916 and, whilst so doing, they struck each other at an angle of about forty-five degrees, the stem of the Potomac striking the R. E. Lee on her larboard bow a few feet back of her stem, and penetrating to her keelson, breaking in her planking and timbers, and bursting out the planking and timbers on the starboard side. At the same time the stem of the Potomac was badly smashed up, and the guard of the R. E. Lee bore down her apron and jack-pole. Both boats were much damaged, and the R. E. Lee, after getting free, went across the river to the bar on the west side, and sank on the bar in 9 feet of water. She was afterwards got up and taken to New Orleans, surveyed and repaired, being subjected to a detention of three weeks, and losing three regular trips. The Potomac did not sink, but kept on her way to the landing at Natchez, and after staying there some hours, stopping her leak as well as possible, she was taken to New Orleans and repaired, being subjected to a detention of fifteen days.

The collision aforesaid occurred a few minutes after 12 o'clock
917 at night. There was no moon, but the vessels could easily discern each other by their lights at a distance of a mile and a half.

Going up the river from Natchez there is a bend to the left, or west, making a curve, the apex of which, following the middle of the channel, is about two miles above the landing. The river widens at this place, and on the westerly side, along the interior of the curve, a shoal puts out, commencing a short distance (about one-third of a mile) above the landing. The channel passes along the east side of this shoal and around it on the north side, being about 400 yards wide. Upward bound vessels generally keep along this shoal as there is less current there to contend against, and downward bound vessels keep to the bend on the Mississippi side to have the benefit of the current; but vessels of large size going up the river cannot approach very near the shoal without being subject to sheering and disobeying their helms. The proper place at this point of such a vessel going up the

river, and not stopping at Natchez, is to keep to the left or west of the center of the channel, and in coming down to keep to the west of the center of the channel. When an upward bound vessel stops at Natchez, on leaving the landing there she properly keeps up the river on the east side a short distance before passing over to the other side.

The court does not find that the R. E. Lee was in fault in being found on the east side of the channel at the time of the collision, as she had yet proceeded but a short distance above the landing. The Potomac was not in fault for being on that side; it was the proper side for her to be.

By the rules and regulations for the government of pilots of steamers navigating the rivers flowing into the Gulf of Mexico, and their tributaries, adopted by the board of supervising inspectors, Jan. 29, 1869, under the acts of Congress in that behalf, the following rules, amongst others, are laid down.

"Rule I. When steamers are approaching each other, the signal for passing shall be one sound of the steam-whistle to keep to the right, and two sounds of the steam-whistle to keep to the left. These signals to be made first by the ascending steamer. If the dangers of navigation, darkness of the night, narrowness of the channel, or any other cause render it necessary for the descending boat to take the other side, she can do so by making the necessary signals, and the ascending steamer must govern herself accordingly. These signals to be observed by all steamers either day or night.

"Rule II. Should steamers be likely to pass near each other, and these signals should not be made and answered by the time such boats shall have arrived at the distance of eight hundred yards from each other, the engines of both shall be stopped, or should the signal be given, and not properly understood from any cause whatever, both boats shall be backed until their headway shall be fully checked, and the engines shall not be again started ahead until the proper signals are made, answered, and understood. Doubts or fears of misunderstanding signals shall be expressed by several short sounds of the whistle in quick succession."

The court finds that both vessels were at fault for not obeying these regulations, and that this was the cause of the collision.

Neither vessel gave the proper signals in proper time, and neither obeyed the direction to stop and back, until they were much nearer to each other than eight hundred yards; the court concludes from the whole evidence that neither vessel commenced to stop and back until they were within four hundred yards of each other. Had they given signals and taken the other precaution in time, the collision would not have occurred.

The respective damage sustained by the two vessels, as found by the commissioner, to whom the matter was referred, and with whose report (quoad the same) the court is satisfied, was as follows:

The actual damage to the Lee being the necessary cost of her repairs, was	$12,237 79
Demurrage allowed for loss of three trips in her established trade, being the profits which, according to the average of her whole business for the season, she would have realized on said trips	7,173 48
Total damage	$19,411 27

(Nineteen thousand four hundred and eleven dollars and twenty-seven cents.)

The respondents objected to the allowance of estimated profits. The reason following such profits instead of charter value of the steamer during the time of her detention was, that, being engaged in a regular established line, and being peculiarly fitted for that line, her charter value could not be satisfactorily ascertained; and other vessels which could be procured to supply her place were not equally fitted for the service.

922 The actual damage to the Potomac, being the necessary cost of her repairs was $5,480 52

Demurrage allowed for 15 days, at $100 per day (her charter value) 1,500 00

Demurrage of her barge 15 days, at $10 per day (charter value) 150 00

Demurrage for ½ day at Natchez 200 00

Total damage $7,330 52

(Seven thousand three hundred and thirty dollars and fifty-two cents.)

The total damage to the R. E. Lee being $19,411 27

And the total damage to the Potomac being 7,330 52

And the total damage to both steamboats being $26,741 79

To wit, twenty-six thousand seven hundred & forty-one dollars and seventy-nine cents. The court finds from the foregoing facts, as matter of law, that each vessel or her owners must bear one-half of this amount; and since the R. E. Lee sustained a greater amount of damage than the Potomac by the sum of twelve thousand and eighty dollars and seventy-five cents, the respondents must pay to the libellant

923 one-half of that difference, to wit, the sum of six thousand and forty dollars and thirty-seven cents ($6,040.37).

At the time of the collision aforesaid the R. E. Lee was under insurance for various amounts in certain insurance companies of Cincinnati against perils of the sea, river risks, and fire, whether the loss were caused by negligence or unavoidable accident, and said companies paid to the libellant, in the aggregate, the sum of seven thousand four hundred and twenty-nine dollars and fifty-two cents ($7,429.52) as and for the loss and damage sustained by the R. E. Lee by said collision, as stated in the amended answer and cross-libel. This amount was arrived at by assuming the damage to the Robert E. Lee at $14,347.34; which included over $2,000 for wages and expenses, whilst the steamer was detained, instead of profits lost. From this sum was deducted one-third of the repairs, new for old, amounting to $3,203.06, leaving a balance of $11,144.28. The insured was then charged one-third of

924 this balance, as his proportion of risk assumed, not covered by insured, amounting to $3,714.76. This left a final balance of $7,429.52, which was paid by the insurance companies as above stated.

After the libel was filed in this cause in the court below, the said insurance companies executed to the owners of the steamer Potomac (the respondents) a release and assignment in the following terms:

"Whereas heretofore, to wit, on the 21st day of December, 1870, the steamer Robert E. Lee, bound up, came in collision with the steamer Potomac, bound down, at a point about a mile above the city of Natchez, Mississippi, during the night; and whereas the undersigned were insurers of the Robert E. Lee in the amounts hereinafter named, and have recognized the loss and paid the sums thereon, which are set opposite

the amount by them so insured, to the owners of the Robert E. Lee at the time; and whereas they are informed that suit has been brought by John W. Cannon as owner of the Robert E. Lee in the dis-
925 trict court of the United States for the district of Louisiana against the steamer Potomac, her boats, apparel, tackle, and furniture and against all persons intervening for their interest therein, and against J. N. Shunk, captain of said steamer Potomac, in a cause of collision, civil and maritime; and whereas the undersigned desire no suit brought for or on their account, and have never authorized the bringing of any, and have given the said Cannon no authority to prosecute said suit, so far as their interests are concerned: Now, this is to witness that in consideration of the premises and one dollar, and other good and valuable considerations to each of the undersigned moving, they do, each company for itself, release, discharge, and set over to the owners of said steamer Potomac and the said Shunk any and all right which they have in and to any damage, or claim of damage (if any there be), whether legal or equitable, growing out of the said collision, and authorize them to use the same, by way of defense or other-
926 wise, in and to the said suit."

Which paper was duly signed and executed by the several insurance companies who had paid to the libellant the insurance money before mentioned, and was delivered to the respondents, the respective amounts paid by each company being written opposite to their several and respective signatures.

There was no proof that the said insurance companies ever authorized this suit to be brought, or that the respondents gave any consideration for the said release and assignment. The respondents, however, insist that the amount of insurance so received by the libellant, and so acquitted and set over to them, should not be deducted from the libellant's damage before bringing them into account with him.

And afterwards, on further consideration and upon request of the counsel for respondents, the court being fully advised in the premises, finds in addition to the facts already found and stated the fol-
927 lowing facts to be annexed to the original findings, viz:

That the R. E. Lee at the time of the collision was insured in sundry insurance companies at Cincinnati (as before stated) to the amount of ($50,000) fifty thousand dollars, and valued at ($75,000) seventy-five thousand dollars in the said policies; that said policies were concurrent policies, and of the same character as the following, which was a copy of one of them, and is made a part of this finding, to wit:

No 2942.] [Proposition No. 25343

Valuation $75 000. Limit of insurance $50,000. Sum insured, $2,000. Premium, $300.

The Commercial Insurance Company of Cincinnati, Ohio, by these presents does cause John W. Cannon to be insured in the sum of not exceeding two thousand dollars, lost or or not lost, upon the steamboat R. E. Lee, wherever said vessel is in safety at noon of the 30th day of October, 1872, and from thence to the noon of the 30th day of October, 1873, when this policy shall expire, unless sooner terminated or made
928 void by conditions hereinafter expressed. With permission to navigate the Ohio and Mississippi Rivers and tributaries except Missouri, Arkansas, and Red Rivers.

On account of present owners, loss, if any, payable to assured. This company having been paid the consideration for this insurance, at the

rate of ten per cent. for the term of this policy, the said steamboat R. E. Lee hereby insured being valued at seventy-five thousand dollars.

Underwriter's obligations. Touching the perils which the said insurance company is content to bear and take upon it under this policy, they are of the seas, lakes, rivers, canals, fires, and jettisons, that shall come to the damage of said vessel or any part thereof. And in case of loss, such loss to be paid in sixty days after proof thereof, proof of interest and adjustment exhibited to the assurers, all sums owing by the assured to the company being first deducted or secured to the satisfaction of the assurers, before such loss shall be paid. But no loss by special average shall in any case be paid, unless the necessary
929 repairs required solely by the disaster (exclusive of the cost of taking the vessel on the docks or hauling her out on marine ways, the cost of dock or railway fees while being repaired, and the cost of ascertaining and proving the loss) shall amount to five per cent. on the value of said vessel as specified in this policy.

Obligations of the assured. This policy shall become void if any further insurance has been or shall be made on said vessel which together with this insurance shall exceed the sum of fifty thousand dollars, or upon any assignment of this policy or charter of said vessel, unless notice is given to this company, and the same be approved and indorsed hereon in writing by the company; also during any time said vessel shall carry hemp on deck unless the same be covered by bagging or unslacked lime in the hold, or cotton on the hurricane deck, and also in case the note or other obligation given for the premium herefor be not paid within fifteen days after maturity and demand, and remain void during the time the same shall be over-
930 due and unpaid. It is also agreed that the insurance by this policy shall cease during the time said vessel shall be taken and held in possession or custody under any proceedings in law or equity, except during the first five days after seizure. No assignment or transfer hereof shall in any case relieve the insured or property hereby insured from any or all of the conditions expressed in this policy, and a violation or non-compliance with any of such conditions, either by the assignee or assignor, before or after the assignment, shall vitiate this policy. Warranted by the assured that this company shall be free from all claim for loss or damage arising from or caused by theft, barratry, robbery, civil commotion, war, or piracy, and during any time said vessel shall be seized and taken possession or detained by any act of the United States Government or other legally excluded causes from damage that may be done by the vessel hereby insured to any other vessel or property from any loss or damage occasioned by said
931 vessel being improperly laden, by the bursting of boilers, the collapsing of flues, explosion of gunpowder, nor for any of the consequences resulting therefrom, the derangement or breaking of the engine or machinery, unless the same be caused by unavoidable external violence; from any loss or damage occasioned by ice between Bissel's Point and the bridge in the port of St. Louis, Mo.; from loss or damage occasioned by the use on board of coal-oil or spirit-gas in any form; from any consequences of said vessel having been engaged in an illicit or prohibited trade at any time whatever, and from any loss caused by the use of an open light of any kind in the hold; nor for loss or damage or expenses resulting from stranding or grounding, unless caused by stress of weather; that there shall be no abandonment, as for a total loss, on account of said vessel grounding or being otherwise detained, or in consequence of any loss or damage unless the injury sustained be equivalent to fifty per centum of the agreed value in

932 this policy; that the aforesaid vessel is and shall be at all times during the continuance of this policy tight and sound, sufficiently found in tackle and appurtenances thereto, competently provided with master, officers, and crew, and in all other things and means necessary for the safe employment thereof; and that said vessel shall be run and navigated upon the aforesaid privileged waters as is usual for boats of her class in the usual prosecution of business, and that this policy shall be null and void while said vessel shall be unseaworthy or condemned as unseaworthy, except while proceeding to a port for repairs; that in the night-time said vessel shall show in a conspicuous place one or more lights, so as to warn and give notice to boats and approaching vessels; and that, while in port or laid up, at least two competent watchmen shall be employed, one of whom shall be on duty at all times. That in all cases of loss or damage the assured shall furnish to said company proofs of the same within thirty days from the date there-
933 of, and all claims under this policy shall be barred, unless prosecuted within one year from the same date, and no loss shall be paid unless the assured shall give immediate notice in case of accident or loss to the company, and the liability of this company for all losses during the continuance of this policy shall not in the aggregate exceed the sum hereby insured.

In case of any loss or misfortune resulting from any peril insured against, the party insured shall use every effort for the safeguard and recovery of said vessel, and if recovered to cause the same to be forthwith repaired, and in case of neglect or refusal on the part of the assured, his agents or assigns, to adopt prompt and efficient measures for the safeguard and recovery of said vessel, then the said insurers are hereby authorized to interpose and recover said vessel, and cause the same to be repaired for account of the insured, to the charges of which the said insurance company will contribute, in proportion as the sum herein insured bears to the agreed value in this policy; but in no case whatever shall the assured
934 have the right to abandon, until it shall be ascertained that the recovery and repairs of said vessel are impracticable, nor sell the wreck, or any portion thereof, without the consent of this company; and the acts of the assured or assurers, or of their joint or respective agents, in preserving, securing or saving the property insured, in case of danger or disaster, shall not be considered or held to be a waiver or acceptance of an abandonment. In case of accident rendering repairs necessary, the master or owner shall cause the said vessel to be surveyed by a competent inspector, who shall, under oath, note particularly the damage sustained and the repairs required thereby; all claims for repairs shall be accompanied by the vouchers, and by the oath or affirmation of the master that such expenses were actually incurred and made necessary by the accident which may have happened to said vessel.

Adjustment of losses. No deduction will be made from claims for repairs to the hull or machinery of said vessel during the first two years
935 from the date of her original custom-house survey, but from all claims for repairs to the cabin, or tackle, or apparel, or furniture, or for replacing the same, the assured shall deduct one-third, that being the agreed difference in value between new and old materials, and the same deduction shall be made from claims for repairs to the hull and machinery, after the first two years, as aforesaid. No allowance will be made for wages or provisions paid or furnished to officers or crew while the vessel is detained by any accident, or while

undergoing any repairs, except for the time they are actually employed for the safety of the vessel and cargo, for which they will be included in the general average account. Whenever this company shall pay any loss, the assured agrees to assign over to said company all right to recover satisfaction therefor for any other person or persons, town or other corporation, or the United States Government, or to prosecute therefor at the charge, and for account of the company, if re-
936 quested. And the said company shall be entitled to such proportion of said damages recovered as the amount insured by them bears to the valuation of said vessel.

In case of return premium, at the request of the assured, a deduction shall only be made on the whole months of unexpired time, the earned time to be charged for at short rates.

In witness whereof The Commercial Insurance Company of Cincinnati have caused these presents to be signed by their president, and attested by their secretary, at their office in the city of Cincinnati, State of Ohio, this 30th day of October, 1872.

(Signed) M. L. HARBESON,
President.

(Signed) J. A. TOWNLEY,
Secretary.

And that under these policies said Cannon, owner of the R. E. Lee, was paid the amount before set out, in money, before the filing of the libel in this cause.

For the reasons expressed in the opinion delivered in the case, the court finds, as matter of law, that this claim of the respondents
937 should not be allowed. The court further decides that, as both parties were in fault, the costs must be equally divided between and paid by them, both in the court below and in this court.

The court then made the following decree:

Decree.

Circuit court of the United States for the district of Louisiana.

JOHN W. CANNON, LIBELLANT,
vs.
THE STEAMER POTOMAC & OTHERS, RESPONDENTS.
} Libel in collision, on appeal from the district court.

It appearing to the court, after hearing the pleadings, evidence, and arguments of counsel in this cause, that the steamer Robert E. Lee, belonging to the libellant, and the steamer Potomac, belonging to the claimant herein, came into collision on the Mississippi River, a short distance above Natchez, Mississippi, on the night of December 21st, 1870, by reason of the mutual fault of both parties, and that the
938 steamers were thereby greatly damaged; and that the damage sustained by the Robert E. Lee amounted to nineteen thousand four hundred and eleven dollars and twenty-seven cents, and the damages sustained by the Potomac amounted to seven thousand three hundred and thirty dollars and fifty-two cents; and that said damage ought to be equally divided between and sustained by the said steamers and their owners; and considering that the said vessels were respectively released and restored to their respective owners upon executing admiralty stipulations, conditioned as the law directs.

It is therefore ordered, adjudged, and decreed that James W. Batchelor, John Fink, H. A. Jones, Theodore Cook, Wash. Huntchel, Baker, Peirce & Co., Robert Semple, and John N. Shunk, claimants and appellees; and W. G. Coyle, John A. Wayne, John Wilson, and R. H. Noble, sureties on the release bond of the Potomac, be condemned, jointly and severally, to pay to John W. Cannon six thousand
939 and forty dollars and thirty seven cents, with five per cent. interest from 27th May, 1878, being one-half of excess of damage sustained by the Potomac; and considering that W. G. Coyle, John Wilson, and R. H. Noble, three of the sureties on the release bond given by the claimants, bound themselves for five thousand dollars each, it is ordered that this judgment be restricted, as to them, to the sum of five thousand dollars each.

It is further ordered and decreed that the commissioner be allowed four hundred dollars for his report, and that the residue of the costs, both in the district court and in this court, to be duly taxed, and said libellant do pay the one-half of said allowance and costs, and that said James W. Batchelor, John Fink, H. A. Jones, Theodore Cook, Wash-Huntchell, Baker, Peirce & Co., Robert Semple, and John N. Shunk. and their said sureties, pay the other half thereof.

Judgment rendered orally 27th May, 1878, but now signed & entered.

(Signed) JOSEPH P. BRADLEY,
940 *Asso. Justice Supreme Court and Circuit Justice.*

Amendments to finding of facts, marked "A," "B," and "C."—Filed February 28th, '79.

AMENDMENT "A."

To the honorable Joseph P. Bradley, associate justice of the Supreme Court of the United States:

The clerk of the circuit court of the United States has furnished me with a copy of your communication of the 17th inst., in the John W. Cannon vs. Steamer Potomac matter.

Inasmuch as the decree cannot be entered until next November, I humbly submit that the finding of facts is not sufficiently full. I would call your attention to the views of T. D. Lincoln, esq. You will recollect that he wrote a brief on the part of the Potomac.

I herewith enclose the letter and also a copy of one of the policies of insurance.

The same clause, interlined, to be found substantially in all
941 the other policies of insurance. We would wish you to take into consideration the matter, so that it might be included in your finding of facts.

Also the matter of damages allowed the libellant for the three weeks' detention of the Lee, so that the true nature of the allowance may appear.

Respectfully submitted,
(Signed) J. AD. ROZIER,
Proctor of Potomac.

1ST AMENDMENT.—That the R. E. Lee, at the time of the collision, was insured in sundry insurance companies at Cincinnati to the amount of $50,000, and valued at $75,000 in the said policies; that said policies were concurrent policies, and of the same character as the follow-

ing, which is made a part of the finding, to wit (here insert policy); that under these policies *that* said Cannon, owner of the Lee, was paid the amount before set out, in money, before the filing of the libel.

942 2ND AMENDMENT.—That the said sum of $7,173\frac{48}{100}$, the profit of the three trips, was made up by subtracting from the average gross receipts the average expenses of the trips without charging anything whatever for insurance, for the wear and tear of the vessel, or for necessary annual repairs, such as painting, caulking, &c., and was ascertained by the statement of the clerk and of Cannon, the captain, from the receipts found entered on the books, with the payments for running expenses found thereon deducted, and from the estimate proof of profits as stated by said clerk, and libellant Cannon, without any deduction for insurance, wear and tear, possible loss, or loss of vessel.

The first amendment, within suggested, is adopted; second is disallowed, inasmuch as the report of the commissioner sufficiently shows how the result was arrived at.

(Signed) J. B. BRADLEY, *Justice.*

943 The second amendment of finding of facts, as set forth in Exhibit A, is disallowed by the associate justice of Supreme Court, and circuit justice, but the clerk being directed by his honor to file it in case the counsel of the steamer Potomac and defendants requested it, and he having so requested, the same is accordingly filed this 28th February, 1879.

(Signed) F. B. VINOT,
D'y Clerk.

AMENDMENT B.

JOHN W. CANNON
vs.
THE STEAMBOAT POTOMAC, J. N. SHUNK, master. } No. United States circuit court.

R. S. SEMPLE, JOHN FINK, & JOHN N. SHUNK
vs.
JOHN W. CANNON.

To the honorable Joseph P. Bradley, associate justice of the Supreme Court of the United States:

In addition to the statement and finding of facts, hereinbefore
944 submitted to your honor, the attention of your honor is drawn to that part of the record wherein John W. Cannon, through his proctor, did not include his exceptions to the report of the commissioner the sum of $7,429\frac{51}{100}$, the amount which the insurance companies paid to John W. Cannon; on the contrary, after making exceptions to the report of the commissioner, he asked that otherwise *that* the report of the commissioner should be approved, thereby admits the correctness of the sum of $7,429\frac{51}{100}$, which your honor has rejected. Even Mr. Marr, proctor for libellant, in his calculation of damages, calculated this amount as allowable in favor of the Potomac. See the exceptions to the report of the commissioner by Mr. Marr, before the commissioner, and the objection of Brickell, esq., before the district court, hereinbefore referred to and in the transcript, and see copy annexed.

(Signed) J. AD. ROZIER,
Of Counsel for Potomac.

945 Disallowed, inasmuch as the record of the proceedings will show all this asked here to be found.

(Signed) J. P. BRADLEY, *Justice.*

That the amendment asked for by counsel of the steamer Potomac and of defendants appears by the Exhibit B, and by the entry on the same by his honor, Judge Bradley, is disallowed inasmuch as the record of the proceedings will show all that is asked for here to be found, but the clerk being directed by his said honor to file said Exhibit B should the counsel of the steamer Potomac and defendants so desire, and the counsel having requested me to do so, I have accordingly filed it this 28th day of February, 1879.

(Signed) F. B. VINOT,
D'y Clerk.

AMENDMENT C.

That at the time of said collision the said steamboat Robert E. Lee was insured by sundry policies of insurance, said insurance having and being effected by said John W. Cannon, libellant, in the
946 amount of fifty thousand dollars, being valued in the policies at the rate of seventy-five thousand dollars. After said loss by collision aforesaid, the libellant caused the said insurance companies to pay him for his loss, under the said policies, the sum of seven thousand four hundred and twenty-nine $\frac{50}{100}$ dollars; the said companies, having recognized the loss under said policies, did pay him said amount by and in virtue of said policies.

That the said insurances were against perils of the river, river risks, and fire.

That the said several insurance companies were bound to pay said loss to said libellant by the terms and stipulations of said policies whether the same was caused by the carelessness or neglect of some third person, by unavoidable accident, or by the neglect or want of care of the said Cannon or those in his employ.

947 That the said insurance companies never authorized the said libellant to file the libel herein, or institute this suit; they do not and have never desired the same prosecuted against the owners of the steamboat Potomac, nor against Captain Shunk, late master of said boat Potomac, nor any of them.

That the said companies released and deliver' in writing to the owners of the steamboat Potomac, and to the said Shunk, any and all right which they have into damages, or claims for damages, if any there was, growing out of said collision, and did authorize the claimants and defendants in their cross-libel, protesting, that they were guilty of no want of care in bringing about said collision, and no way responsible therefor; yet, nevertheless, if the court shall find and hold otherwise, they are entitled to have deducted from the damages which the said Robert E. Lee has suffered, and for which the court may hold them responsible, the said several sums so as aforesaid paid by said
948 insurance companies, amounting to the said sum of seven thousand four houndred and twenty-nine $\frac{51}{100}$ doll's.

That by the decree of the district court of the United States, appealed from, all the actual damages to the Robert E. Lee and the loss of profits and other losses suffered by the Lee were allowed, and from that aggregate damage the said amount paid Cannon, libellant, by said in-

surance companies in their joint policies, being the whole amount due him thereunder, was deducted from the aggregate damage in the decree of the United States district court; and that the court in this decree disallowed that deduction.

The insurance companies paid the said Cannon, libellant, all that was coming to him under their policies. That the said amount received by Cannon was not by compromise, but was all that was due him under the said policies, and that he obtained the full allowance for all his damages in the decree of the United States district court, to wit, for average net earnings of three trips $2,391 $\frac{16}{100}$ for each of the trips
949 during the detention, making the sum of seven thousand one hundred and seventy-three $\frac{48}{100}$ doll's, for costs of repairs to the Robert E. Lee the sum of twelve thousand two hundred and thirty-seven $\frac{11}{100}$ dollars. These two sums added make the total sums of nineteen thousand four hundred and eleven $\frac{27}{100}$ dollars allowed by the court to the Robert E. Lee, Cannon libellant, as damages by her sustained.

That the owners of the Potomac (defendant and cross-libellant) claimed to reduce the damages offered by the Robert E. Lee to that extent.

That the court refused said sum to be used in whole or in part to the owner of the Potomac in this suit, and ordered a decree wholly disregarding the same.

And to the full extent of which the owner of the Lee would be entitled had no such assignment been made by the insurance companies to the owner of the Potomac, and that the owners of the Potomac excepted to the ruling.

Reserved bill of exceptions.

950 The counsel of Steamer Potomac and defendants having asked that Exhibit C be made a part of the findings, his honor Judge Bradley disallowed them; but his honor having directed the clerk to file it in case he should be so requested by said counsel, and having been so requested by him, the same is accordingly filed this 28th day of February, 1879.

(Signed) F. B. VINOT, *D'y Clk.*

Copy of decree.

UNITED STATES OF AMERICA:

Circuit court of the United States, fifth circuit & district of Louisiana, November term, A. D. 1878.

NEW ORLEANS, *Friday, February 28th*, 1879.

Court met pursuant to adjournment. Present, Hon. W. B. Woods, circuit judge.

JOHN W. CANNON
vs.
THE STEAMER POTOMAC & OTHERS, RESPONDENTS. } No. 8290.

It is therefore ordered, adjudged, and decreed that James W.
951 Batchelor, John Fink, H. A. Jones, Theodore Cook, Wash. Huntchel, Baker, Peirce & Co., Robert Semple, and John N. Shunk, claimants and appellees, and W. G. Coyle, John A. Wayne, John Wilson, and R. H. Noble, sureties on the release bond of the Potomac, be condemned, jointly and severally, to pay to John W. Cannon six thousand and forty dollars and thirty-seven cents, with five per cent. interest from 27th May, 1878, being one-half of excess of damage sustained by the Potomac; and, considering that W. G. Coyle, John Wilson, and R. H. Noble, three of the sureties on the release bond given by the

claimants, bound themselves for five thousand dollars each, it is ordered that this judgment be restricted, as to them, to the sum of five thousand dollars each.

It is further ordered and decreed that the commissioner be allowed four hundred dollars for his report, and that the residue of the costs, both in the district court and in this court, to be duly taxed, and said libellant do pay the one-half of said allowance and costs; and
952 that said James W. Batchelor, John Fink, H. A. Jones, Theodore Cook, Wash. Huntchell, Baker, Peirce & Co., Robert Semple, and John N. Shunk and their said sureties pay the other half thereof.

Judgment rendered orally 27th May, 1878, but now signed and entered.

(Signed) JOSEPH P. BRADLEY,
Asso. Justice Supreme Court & Circuit Justice.

Motion & order for appeal.—Entered & filed February 28th, 1879.

And thereupon, on motion in open court by J. Ad. Rozier, proctor, and of counsel for the claimants, sureties on the release bond of the Potomac, respondents, cross-libellants, and defendants in the above-entitled cause, to wit, James W. Batchelor, John Fink, H. A. Jones (whose full name is Henry A. Jones), Theodore Cook, Wash. Huntchel (on the release bond named Wash. Hunchell), Washington Honshall (erroneously named in the decre' Wash. Hunchell), Robert Semple (whose full name is Robert S. Semple), John N. Shunk, W. G.
953 Coyle, John A. Wayne, John Wilson, R. H. Noble, Baker, Pierce & Co., and the late commercial firm Barker, Pearce & Co. (erroneously condemned by the said decree by the name of Baker, Pierce & Co.), composed of Jonathan H. Barker, Christopher G. Pearce, Robert S. Semple, John C. Reno, Thomas A. Cassily, Henry A. Johnson, Washington Honshall, and Theodore N. Johnson; and on suggesting that they are advised that the said decree is erroneous, and they desire to appeal; and on this motion it is ordered in open court that they be allowed an appeal from said decree to the Supreme Court of the United States, returnable at its next term of court, and said appeal to operate as a supersedeas, with stay of execution, on furnishing a bond in the sum of eight thousand five hundred dollars, with good and sufficient security conditioned according to law.

Copies of decree and motion & order for appeal lodged in the clerk's office of the circuit court of the United States for the fifth circuit & district of Louisiana, in pursuance of the statute in such cases made and provided, this 28th day of Febr'y, 1879.

(Signed) J. AD. ROZIER,
Proctor, and of Counsel for Appellants.

954 *Bond for appeal.—Filed March 1st*, 1879.

UNITED STATES OF AMERICA:

Know all men by these presents that we, James W. Batchelor, John Fink, H. A. Jones (Henry A. Jones), Theodor Cook, Wash. Huntchel (Wash. Hunchel), Washington Honshall (erroneously named Wash. Huntchel), Robert Semple (whose full name is Robert S. Semple), John N. Shunk, W. G. Coyle, John A. Wayne, John Wilson, R. H. Noble, Baker, Peirce & Co., and the late commercial firm of Barker, Pearce & Co. (erroneously condemned by the decree hereinafter named by the name of Baker, Peirce & Co.), composed of Jonathan H. Barker, Christopher G. Pearce, Robert S. Semple, John C. Reno, Thomas A. Cassilly,

Henry A. Jones, Washington Honshall and Theodore N. Johnson, and Jesse K. Bell and William Fagan, are held and firmly bound, jointly and severally, unto John W. Cannon in the sum of eight thousand and five hundred dollars, lawful money of the United States of America, the said Jesse K. Bell binding himself in the sum of four thousand and two hundred and fifty dollars, and William Fagan, surety, binding himself in the sum of four thousand and two hundred and fifty dollars to be paid to the said John W. Cannon, his heirs, executors and administrators and assigns, for which payment, well and truly to be made, we bind ourselves, and each of us by himself, and each of our heirs, executors, and administrators, firmly by these presents. Sealed with our seals and dated the first day of March, in the year of our Lord eighteen hundred and seventy-nine.

955

Whereas the aforesaid James W. Batchelor, John Fink, H. A. Jones (whose full name is Henry A. Jones), Theodore Cook, Wash. Huntchel (Wash Hunchel), Washington Honshall (erroneously named Wash. Huntchel), Robert Semple (whose full name is Robert S. Semple), John N. Shunk, W. G. Coyle, John A. Wayne, John Wilson, R. H. Noble, Baker, Peirce & Co., and the late commercial firm Barker, Pearce & Co. (erroneously condemned by the decree by the name of Baker, Peirce and Co.), composed of Jonathan H. Barker, Christopher G. Pearce, Robert S. Semple, John C. Reno, Thomas A. Cassilly, Henry A. Jones, Washington Honshall, and Theodore N. Johnson, having heretofore, to wit, on the 28th day of February, A. D. 1879, taken an appeal to the Supreme Court of the United States from and to reverse the decree rendered on the 28th day of February, A. D. 1879, by the circuit court of the United States holding sessions in and for the district of Louisiana, in the suit of John W. Cannon vs. Steamer Potomac and J. N. Shunk, master, No. 8290 of the docket thereof:

956

Now, the condition of the above obligation is such that if the above-bounden James W. Batchelor, John Fink, H. A. Jones (whose full name is Henry A. Jones), Theodore Cook, Wash. Huntchel (Wash. Hunchel), Washington Honshall (erroneously named Wash. Huntchel), Robert Semple (whose full name is Robert S. Semple), John N. Shunk, W. G. Coyle, John A. Wayne, John Wilson, R. H. Noble, Baker, Pierce & Co., and the late commercial firm of Barker, Pearce & Co. (erroneously condemned by said decree by the name of Baker, Pierce & Co.), composed of Jonathan H. Barker, Christopher G. Pearce, Robert S. Semple, John C. Reno, Thomas A. Cassilly, Henry A. Jones, Washington Honshall, and Theodore N. Johnson, shall prosecute their said appeal to effect and shall answer all damages and costs if they shall fail to make good their plea, then this obligation shall be void; otherwise to remain in full force and virtue.

957

(Signed) ROBERT S. SEMPLE, [SEAL.]
By J. AD. ROZIER, *His Proctor.*
JNO. WILSON. [SEAL.]
J. K. BELL. [SEAL.]
WM. FAGAN. [SEAL.]

Signed & delivered in the presence of—
(Signed) F. B. VINOT.

Approved March 1st, 1879.
(Signed) W. B. WOODS,
U. S. Circuit Judge.

UNITED STATES OF AMERICA,
District of Louisiana:

Personally appeared William Fagan, who, being duly sworn, deposes and says that he is the surety on the within bond; that he resides in the city of New Orleans, State of Louisiana, and is worth the
958 full sum of four thousand and two hundred and fifty dollars over and above all his debts and liabilities and property exempt from execution.

(Signed) WM. FAGAN.

Sworn to and subscribed before me this 1st March, 1879.
(Signed) F. B. VINOT,
U. S. Comm'r.

UNITED STATES OF AMERICA,
District of Louisiana:

Personally appeared Jesse K. Bell, who, being duly sworn, deposes and says that he is the surety on the within bond; that he resides in the city of New Orleans, State of Louisiana, and is worth the full sum of four thousand and two hundred and fifty dollars over and above all his debts and liabilities and property exempt from execution.

(Signed) J. K. BELL.

Sworn to & subscribed before me this 1st March, 1879.
(Signed) F. B. VINOT,
U. S. Comm'r.

The within bond approved.
(Signed) BENTINCK EGAN,
Proctor for Libellant.

MARCH 1, 1879.

959 *Instructions for drawing transcript.—Filed April 2d, 1879.*

JOHN W. CANNON
vs.
STEAMBOAT POTOMAC & J. N. SHUNK, MASTER.

On appeal to the Supreme Court of the United States.

The clerk of the circuit court of the United States will please make out a full transcript of the record herein. I have furnished him with a printed portion of the record which he will use as a part of the record, using the same as the clerk of the district court did when he sent up the transcript to the circuit court. B. Egan, esq., has promised me to give his written consent to the using the printed matter, although this is not necessary that I should obtain his consent to do this.

Respectfully y'rs,
(Signed) J. AD. ROZIER,
Proctor of Potomac, Claimants & Cross-Libellants.

APRIL 2, 1879.

To the clerk of the circuit court.

960 *Agreement.—Filed May 28th*, 1879.

Circuit court of the United States in and for the 5th circuit and district of Louisiana.

JOHN W. CANNON
vs.
STEAMER POTOMAC ET ALS. } No. 8290.

A certain portion of the record of the circuit court, in the above-entitled cause, being in print, it is agreed that this portion of said record shall not be copied in manuscript, but the clerk, in making out his transcript, shall use an identical printed copy of that printed portion referred to above, the sole object being to save costs in the making of the transcript for the Supreme Court. This agreement is not to affect my objection that, under the law as it now stands, act of 1875, the circuit court finds the facts and there is no necessity for any transcript of evidence offered by either party, and, therefore, the transcript of the evidence is useless and unnecessary and the expenses of it must be born' by the appellants.

(Signed) BENTINCK EGAN,
Proctor.

(Here follows diagram marked page 961.)

962 UNITED STATES OF AMERICA.

Circuit court of the United States, fifth circuit and district of Louisiana.

CLERK'S OFFICE.

I, Francis A. Woolfley, clerk of the circuit court of the United States for the fifth circuit and district of Louisiana, do hereby certify that the foregoing 291 pages manuscript, together with the printed record consisting of 669 pages marked part 1st A, contain and form a full, complete, true, and perfect transcript of the record and proceedings had together with all the evidence adduced on the trial of the case of John W. Cannon vs. Steamer Potomac et als. No. 8290 of the docket, so far as the same now remain of record or on file in said court.

Witness my hand and the seal of said court at the city of New Orleans, this 28th day of May, A. D. 1879.

[SEAL.] F. A. WOOLFLEY, *Clerk.*

I, Edward C. Billings, United States judge for the district of Louisiana, do certify that Francis A. Woolfley, whose name is signed to the above certificate as clerk of the circuit court of the United States for the fifth circuit and district of Louisiana, was, at the time of signing said certificate, and is now, the clerk of said court. That said certificate is in due form of law, and that full faith and credit are due to his official attestations as such clerk.

Given under my hand at the city of New Orleans, in said district, this 28th day of May, A. D. 1879.

EDWARD C. BILLINGS, *Judge.*

963 THE UNITED STATES OF AMERICA.

Circuit court of the United States, district of Louisiana.

The President of the United States to John W. Cannon, John Janney, and W. G. Coyle, greeting;

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at the city of Washington on the second Monday of October next, pursuant to a motion and an order for appeal filed in the clerk's office of the circuit court of the United States for the fifth circuit and district of Louisiana, wherein James W. Batchelor, John Fink, H. A. Jones (whose full name is Henry A. Jones), Theodore Cook, Wash. Huntchel (on the release bond named Wash. Hunchell), Washington Honshall (erroneously named in the decree Wash. Huntchel), Robert Semple (whose full name is Robert S. Semple), John N. Shunk, W. G. Coyle, John A. Wayne, John Wilson, R. H. Noble, Baker, Pierce & Co., and the late commercial firm of Barker, Pearce & Co. (erroneously condemned by the said decree by the name of Baker, Pierce & Co.), composed of Jonathan H. Barker, Christopher G. Pearce, Robert S. Semple, John C. Reno, Thomas A. Cassilly, Henry A. Jones, Washington Honshall, and Theodore N. Johnson, are appellants, and you and each of you are appellees, to show cause, if any there be, why the decree rendered against the said appellants as in said motion for appeal mentioned should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, this 10th day of March, in the year of our Lord one thousand eight hundred and seventy-nine.

W. B. WOODS, *Judge.*

964 (Indorsed:) United States circuit court. No. 8290. John W. Cannon vs. Steamer Potomac & J. N. Shunk, master. Citation. John W. Cannon, W. G. Coyle, John Janney.

Marshal's return.

Received Mar. 13, 1879, by the U. S. marshal, and on the same day, month, and year I served a true copy of the within citation of appeal personally on John W. Cannon, in the city of New Orleans; and on the same day, month, and year I served a true copy of the within citation of appeal on John Janney, personally, in the city of New Orleans; and on the same day, month, and year I served a true copy of the within citation of appeal on W. G. Coyle, personally, in the city of New Orleans.

E. S. CURRY,
D'y U. S. Marshal.

E. S. Curry, being duly sworn, doth depose and say that he is a lawfull deputy of Jack Wharton, U. S. marshal for the district of Louisiana, and that the returns hereon written of the service made on John Janney, W. G. Coyle, and John W. Cannon are true and correct as therein set forth.

E. S. CURRY,
D'y U. S. Marshal.

Sworn to & subscribed before me this 18th day of March, 1879.

F. B. VINOT,
U. S. Comm'r.

965 *Assignment of errors.*

Supreme Court of the United States.

STEAMER POTOMAC ET ALS., CLAIMANTS AND appellants,
vs.
JOHN W. CANNON, LIBELLANT AND APPELLEE.

Now come the said appellants and file their appeal, and the certified transcript of the record of said case from the circuit court of the United States for the district of Louisiana, and pray that the decree therein rendered may be reversed, because of the following and other errors, apparent on the face of the record:

First. The court erred in finding a decree and judgment for the libellant, John W. Cannon, whereas it should have been for the said claimants (the appellants in this court).

Second. The court erred in refusing to allow the claimants below (appellants here) the benefit of the insurance money paid said John W. Cannon by the Cincinnati insurance companies, to wit, $, or to permit it to be deducted from the damages of said John W. Cannon before placing the same in a division for damages.

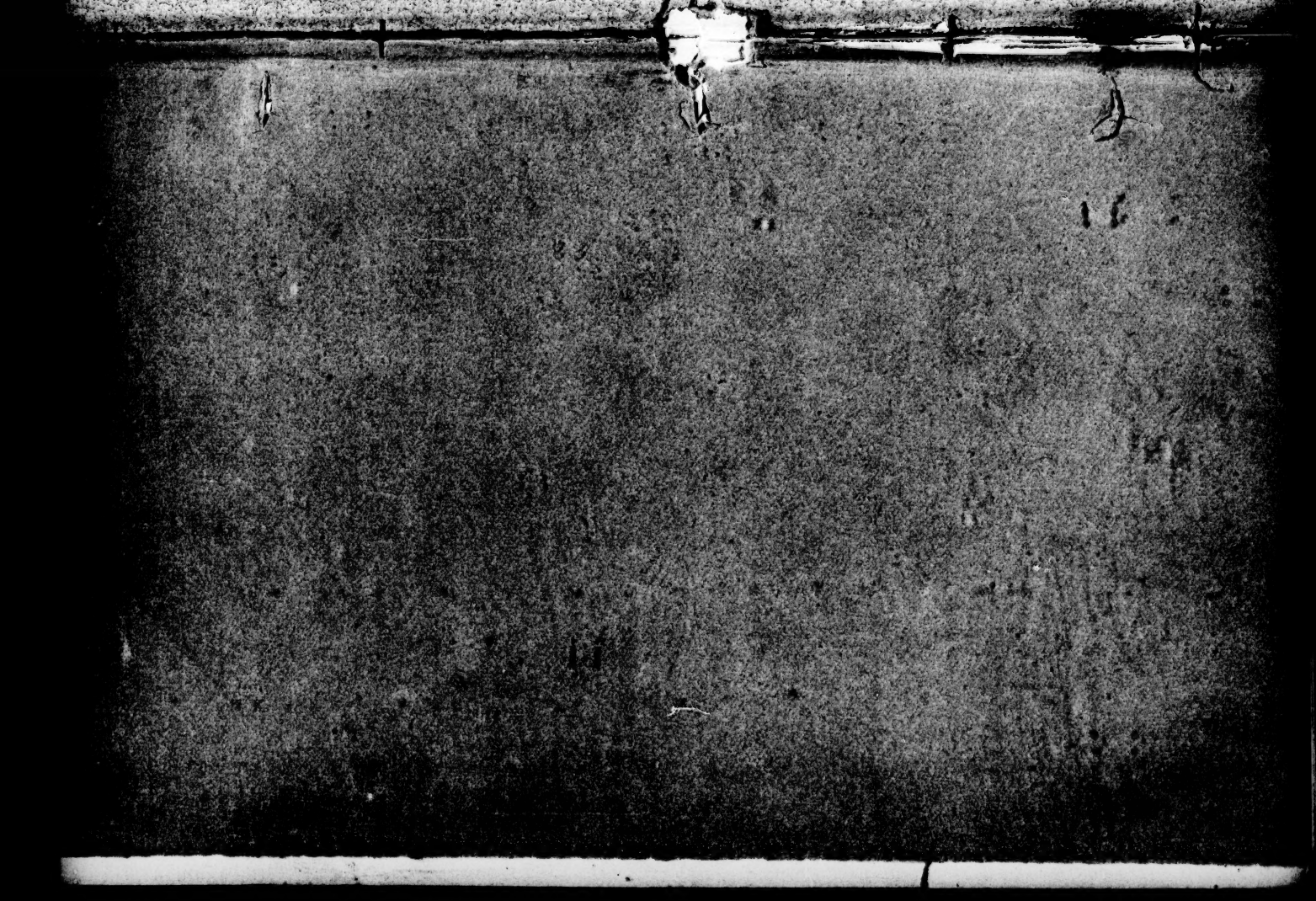
Third. The court erred in finding the libellant, John W. Can-
966 non, entitled to the sum of six thousand nine hundred & twenty-two $\frac{50}{100}$ dollars ($6,922\frac{50}{100}$) for loss of three trips while being repaired, the same being made up as the average profits of the trips for the previous season without any deduction for repairs, wear and tear of vessel, or possible loss of amount earned or for insurance; whereas the same should have been made up from the fair value of the use of such boat during the time she was laid up, making proper deductions or allowances for wear & tear, &c., during said time had she been running.

Fourth. That in the mode adopted to ascertain the damage or compensation to J. W. Cannon, for delay of the steamer R. E. Lee while being repaired, the court erred, and allowed therein too large a sum by over five thousand dollars ($5,000).

Fifth. That there are many other errors apparent on the face of the record.

LINCOLN, STEPHENS & SLATTERY,
Att's for Appellants.

(Indorsement on cover:) No. 222. The Steamer Potomac, &c., James W. Batchelor et al., claimants, appellants, vs. John W. Cannon. Louisiana C. C. U. S. Filed 1st August, 1879.



OFFICE SUPREME COURT U.S.
FILED
MAR 1 1882
JAMES H. McKENNEY

Supreme Court of the U. S.

OCTOBER TERM, 1881.

STEAMER POTOMAC ET AL.
vs.
JOHN W. CANNON ET AL.
} IN ADMIRALTY.

222

Appeal from the Circuit Court of the United States for the District of Louisiana.

BRIEF OF

T. D. LINCOLN,
Of Counsel for Appellants.

Supreme Court of the U. S.

OCTOBER TERM, 1881.

STEAMER POTOMAC ET AL.
222 VS. } IN ADMIRALTY.
JOHN W. CANNON ET AL.

Appeal from the Circuit Court of the United States for the District of Louisiana.

I

STATEMENT OF FACTS.

The libel in this case was filed by John W. Cannon, owner of the steamer R. E. Lee, to recover damages of the steamer Potomac, occasioned by a collision between those two boats, which occurred on the 21st of December, 1870, on the Mississippi river, a short distance above Natchez.

The libel charges that the collision was caused wholly by the carelessness of those in charge of the steamer Potomac. The owners of the Potomac filed an answer and cross-libel denying all want of care on their part and setting up carelessness on the part of those navigating the Lee, and claiming damages on their part for injuries which the Potomac sustained by the collision.

The answer also averred that the Lee was insured to the amount of $50,000., valued at $75,000. upon sundry concurring policies issued from the Cincinnati insurance com-

panies, and that irrespective of whether the collision happened by the fault of those in charge of the Lee, she had been paid $7,429.51: that the said sum so paid by the insurance companies, and to which they were entitled by way of subrogation, had been assigned to the defendants, the owners of the Potomac, and that they were authorized by such companies to use the same by way of defense to any damages the Lee might have, or otherwise; and the owners of the Potomac claimed, that even if the Cannon was entitled to recover damages of them for the collision, that they were entitled to deduct that sum from such damages, as the assigns thereof.

The case was heard before the District Court, and that Court found that the collision was the result of the mutual fault of the two boats, and that each was bound to pay one-half of such damages; that Court found that the Lee's damages were $19,411.27, and that Cannon was entitled to recover one-half of it, less $7,429.51, so assigned by the insurance companies to the owners of the Potomac, to-wit: the sum of $2,276.12; that the damages of the Potomac were $7,330.52, one-half of which, to-wit: $3,665.26, the owners of the Potomac were entitled to recover of Cannon and his sureties.

In making up the damages, the Lee was allowed for delay of the boat for three trips. The average profits of the 26 trips the Lee made during the whole season, to-wit: $ was taken and these profits entered into the $19,411.27 damages found. In making up these average profits nothing was allowed for wear and tear, or repairs of the Lee for these trips, nor for insurance. They were found by deducting from the monies received, the monies paid out, without regard to wear and tear or insurance. In making up the damages for the Potomac, she was allowed $100. per day for fifteen days, being the amount which that delay, all things considered, as proven by experts and those familiar with the boat and her trade, had damaged the Potomac.

The damages in this regard were ascertained upon alto-

gether different rules and principles, and formed the subject of exceptions and is one of the questions before this Court now.

Both parties appealed to the Circuit Court, and that Court in its finding affirmed the decree of the District Court in all things, except in the allowance of the amount paid Cannon by the insurance companies and by them assigned to the owners of the Potomac and denied to them any benefit of such payment and assignment. This presents one of the questions now before this Court.

In reference to the average profits of the 26 trips, allowed the Lee for delay, the Circuit Court found these damages in the same way as did the District Court, to-wit: in these average profits.

The Associate Judge took the case under advisement with him on the Circuit, and forwarded his findings to the clerk. The defendants, before the entry thereof, asked the Court to add a finding showing that in the making up the profits, nothing was deducted for wear and tear or for repairs of the Lee, and nothing for insurance, but the Court refused this amendment, upon the ground that the way these profits were made up would appear by the report of the Commissioner, and that it was therefore unnecessary to make such finding; but the Court directed the clerk to file the amendment requested, if the parties so desired it, which was done. *Printed Rec. p.* 448.

Thus, the Court, in its findings, brings up that report for consideration upon this question of damages, and it appears therein that nothing was allowed for wear and tear, or for insurance, in these profits.

The clerk of the boat, who reports these profits, expressly so swears, and he shows that the repairs were very large. *Printed Rec. pp.* 393, 395.

This mode of estimating the damage by delay presents another of the questions now before this Court.

Hall v. *Railroad Cos.*, 13 Wall., 372.
Peoria Ins. Co. v. *Frost*, 37 Ill., 335.
Hart v. *The West. R. R. Co.*. 13 Met., 105, 107.

The claim against a wrongdoer stands in his name for the benefit of himself and the underwriter, and, at law, could only be prosecuted in his name.

Yates v. *Wyle*, 4 Bing. N. Cas. 282.
Rockingham M. Ins. Co. v. *Bosher*, 39 Maine, 255.
Com. L. Ins. Co. v. *N. Y. & N. H. R. R. Co.*, 25 Conn., 277.

But in equity and in admiralty, it could be prosecuted in the name of the underwriters, if they had paid the whole loss. Then, they could conduct the suit at law in the name of the insured, without consulting him, or in their own name, in equity; and if they had only paid two-thirds of the damage, as in this case, then in the name of the insured at law for his and their benefit; and in equity, in his and their name, for the benefit of the parties, as they may be severally interested in the amount to be recovered.

The Brig Ann C. Pratt, 1 Curtis. 343.
Randall v. *Cochrane*, 1 Ves. Sr., 98.
Propeller Monticello v. *Mallison*, 17 How., 155, 156.
Garrison v. *Memphis Ins. Co.*, 19 How., 317.
White v. *Dobinson*, 14 Sim., 274.
Frets v. *Bull*, 12 How., 468, 469.

These principles are well established.

Upon the payment of the loss, or a part thereof, the right to damages from a wrongdoer is said to pass to and vest in equity in the underwriter so paying.

Com. M. Ins. Co. v. *N. H. R. R. Co.*, 25 Conn. 275.
Rockingham M. Ins. Co. v. *Bosher*, 39 Maine, 255.

And the insured party, or owner insured, is said to be

trustee of the claim for the benefit of the underwriter, to the extent to which he has so paid the damages.

Hart v. *The W. R. R. Co.*, 13 Met. 106.
Rockingham M. Ins. Co. v. *Bosher*, 39 Maine, 255.

This is true, in some general sense, though not entirely accurate.

The owner is not a trustee in the full sense of that word. The claim for damages stands in his name for the benefit of the underwriter, and he may join in a prosecution of it, or take such prosecution upon himself, if the owner neglects or refuses to do so. But the owner is not bound to prosecute, or do anything to collect or preserve the claim of his own motion. *Newcomb* v. *Cin. Ins. Co.*, 22 Ohio St., 388.

He can not rightfully discharge it, or destroy it; and if so done with notice, the wrongdoer will be compelled to respond for the benefit of the underwriter.

Hart v. *The West. R. R. Co.*: 13 Met., 106.
Rockingham M. F. Ins. Co. v. *Bosher*, 39 Maine, 255.

Unless the insurer request the party to proceed, and proposes to bear his proportion of the expense, he is not bound to proceed.

Newcomb v. *Cin. Ins. Co.*, 22 Ohio St., 388.
Rittenhouse v. *Levering*, 6 Watts & Serg., 197, 199.
Dixon on Subrogation, 155, 157, 175, 177, 179.

And he may proceed for his own benefit alone, and to recover just the sum that he has not received from the underwriter. Unless requested by the underwriter, he is not bound to include any claim for a recovery for the insurance company.

Newcomb v. *Cin. Ins. Co.* 22 Ohio, 388.

Dixon on Subrogation, 175.
Woodworth v. *Ins. Co.* 5 Wal. 89.

So that the owner is not in the strict sense a trustee.

But the underwriter, having paid a loss in whole or in part, has an interest in the recovery against the wrongdoer, which he may pursue or not, as he pleases. He may release it to the wrongdoer, and authorize him to use it in defense, as has been done in this case. And the libellant, having once received it, can not recover it again against the wishes of the underwriter who has paid it to him.

Hart v. *The Western R. R. Co.*, 13 Met., 105.
Rockingham M. F. Ins. Co. v. *Bosher*, 39 Maine, 255.
2 *Phils. on Ins.* (5th ed.) 240, sec. 512.

It would be unjust and inequitable to permit him to recover it a second time, against the wishes of the underwriter who has paid it.

Hart v. *The Western R. R. Co.*, 13 Met., 105.
Rockingham M. F. Ins. Co. v. *Bosher*, 39 Maine, 255.

Second. Admiralty decides its cases upon the broad principles of justice and equity.

Benedict on Ad., Sec. 41, 42, 329, 358.
The Hiram, 1 Wheat, 445.
Brown v. *Lull*, 2 Sum., 449, 450.

"Courts of Admiralty are not, by their constitution and jurisdiction, confined to the mere dry and positive rules of common law. But they act upon the enlarged and liberal jurisprudence of courts of equity; and in short, so far as their powers extend, they act as courts of equity." 2 *Sum.*, 449, 450.

The Admiralty Court does not have general equity powers.

Bryant v. *Steamboat John Jay*, 17 How., 402.
Ward v. *Thompson*, 22 How., 333.

But it is less restricted and bound by precedents, and acts, as a court of justice, upon the broadest principles of equity and right.

Benedict on Ad., sec. 329, pp. 201, 202.
Andrews v. *Eq. F. and M. Ins. Co.*, 3 Mas., 16.

It decides upon just and equitable principles applicable to the case.

Benedict on Ad., sec. 329, pp. 201, 202.
The Juliana, 2 Dods., 521; 6 Eng. Ad., 521.
The Minerva, 1 Hagg., 357; 7 Eng. Ad., 357.
The Trident, 1 W. Rob., 35; 8 Eng. Ad., 36.
The Harriet, 1 W. Rob., 192; 8 Eng. Ad., 192.

These views are well presented by LORD STOWELL, in the case of the *Juliana*, 2 Dods., 521. He says:

"A court of law works its way to short issues, and confines its views to them. A court of equity takes a more comprehensive view, and looks to every connected circumstance that ought to influence its determination upon the real justice of the case. This Court certainly does not claim the character of a court of general equity; but it is bound, by its commission and constitution, to determine the case submitted to its cognizance upon equitable principles, and according to the rules of natural justice" 6 Eng. Ad., 521.

In the case of the *Harriet*, this great Judge says:

"Yet the court of admiralty, being a court of equity, will consider how far these engagements are reasonable or not; and upon that principle this Court has proceeded in later cases," etc. 1 *Hagg.*, 357; 7 *Eng. Ad.*, 357.

And in the case of the *Trident*, the late Dr. Lushington says:

"I also take it to be clear, that, in a case where there are several bonds, and one is secured on the ship and freight, and another upon the ship, freight and cargo, according to every principle of equity—and this Court sits as a court of equity—I am bound to marshal the assets, and say, you shall satisfy your claim from the cargo, and you yours from the ship and freight."

And in the *Harriet*, this same learned admiralty judge says:

"For I know of no general principles of maritime law which differ from the rules of other courts. If a court of equity would relieve, and a court of law could not, I consider that it would be my duty to afford that relief under the circumstances of the present case. The jurisdiction which I exercise is an equitable as well as a legal jurisdiction; and I must relieve the parties in this suit, if they are entitled to be relieved in law or in equity." 1 *W. Rob.*, 192.

Now, clearly, the libellant having received this sum of money from the insurance companies on account of the collision, he has no just right to receive it again, except for them; and as they did not authorize the suit, and did not wish it prosecuted, and have, in fact, released and assigned their right to the claimants, and authorized them to set it up in defense, there is no fair or equitable rule by which the libellant can recover the part of the damages which he has received from the insurance companies.

That must be deducted from the damages proved.

I submit that upon these authorities, the owners of the Potomac were entitled to the benefit of these damages, and their consideration in their behalf could not be legally refused.

The underwriters, upon the payment of the loss, were entitled to this interest in any damages to be recovered by the law and by their contract it could not be taken away from them; this is true irrespective of whether the owners of the Lee receive the whole of their damages or not. If from their

own fault they cannot recover one-half of their damages, that does not deprive the underwriter of his interest therein to the extent to which he has paid such damages. By the payment of this loss, the underwriter became entitled to this damage as a fixed and determinate right. It is fixed by its payment and acceptance of the loss from the underwriter.

This is their contract, and having caused the loss by their own carelessness, there is no reason why that contract should not be fairly executed; and the underwriter can surely assign this interest; nor can such right of the underwriter enlarge this claim which the Lee was entitled to recover against the Potomac.

The Circuit Court did not proceed upon any such rule. That Court seemed to have been influenced by what is regarded as the hardship of the case. The Court says:

"It seems to me a little hard on the owners of the Lee, that they should not be permitted to apply their insurance to that portion of their damage for which they have no redress against the other vessel." 3 *Woods. C. C. Rep.* 166.

How is it hard? The Lee was the chief wrongdoer, as the opinion of the learned judge from which the above is quoted, shows, 3 *Woods*, 163. That vessel has no remedy, for the reason that she brought the wrong upon herself, and for the further reason that by her contract with the insurance companies, it is expressly provided otherwise.

"And the said company shall be entitled to such proportion of said damages recovered as the amount insured bears to the valuation of the said vessel."

This is the language of the policies.

In this case it is as the $50,000. insured is to $75,000. the agreed value found in the policy. This is but an application of the rule of insurance law. If the money had been recovered from the Potomac, could not the insurance companies have insisted upon their right in it? If so, could they not have

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handed it over to the owners of the Potomac? Pray, what had the Lee to do with that?

The decision of the Circuit Court utterly destroys this right of subrogation and obliterates the contract of insurance between the parties relating thereto. According to the reasoning of the Circuit Court, if half the insurance companies had failed, so that the Lee could have recovered nothing from them, then this right of subrogation secured to the other companies by the law and by the form of these policies would have been lost; that is the result of the reasoning of the Circuit Court.

The question as here presented was regarded as new by the Circuit Court, and that Court seemed to be troubled with it, (3 *Wood*, 166.) and I submit erred in its decision thereon.

The damages to the steamer Lee, as found, were $19,411.27, one-half of which only could she recover, to-wit: $9,705.63, from which should be deducted the amount paid by the insurance companies, and assigned by them to the owners of the Potomac, to-wit: the sum of $7,429.51, which would leave the sum of $2,276.12 to be paid to the owner of the Lee, by the owners of the Potomac.

But the damages of the Potomac, as found, were $7,330.52, one-half of which were to be paid by the Lee, to-wit: $3,665.26, so that upon the whole case the owners of the Lee were bound to pay to the owners of the Potomac $1,389.18.

This is in accordance with the decree of the District Court, irrespective of the manner in which the damages of the Lee were made up. And upon this point we maintain that the Circuit Court erred to the prejudice of the appellants.

III.

The Circuit Court Erred in Its Rule of Damages for the Delay of the Lee During Repairs.

In making out the damages of the steamer Lee, the Court allowed an item of $7,173.48 for the delay of that boat while being repaired. This item was found by taking the average of the profits of the boat for twenty-six trips, being the trips made during the season in question. These profits were found by deducting from the gross recipts the gross expenses, leaving out the item for insurance and any item for wear and tear and repair thereof. In this it is claimed that the Circuit Court erred.

Damages for delay of the boats are admitted to be proper, though such damages have been much controverted and are carefully guarded so as to exclude all speculative items or profits. They were claimed by both parties in this case. The owners of the Potomac's damage was not assessed upon the rule of profits, but a sum per day of $100, for fifteen days, was allowed for the delay. This was proven by those familiar with the boat and her trade, they stating the fair value of such delay, all things considered; and the appellants claimed that the item on the part of the Lee must be made up in the same way, and could not be legally found by an average of the profits of her trips. The Court further erred in not considering the money to be paid for insurance during these trips, and the item of wear and tear, and deducting something for that.

This presents the second legal question now before this Court.

And it is here insisted that the mode adopted to make up the damages to the Lee was not the usual or proper mode of estimating such damages, and that the defendants were greatly prejudiced thereby.

The rule, as established, is to make fair compensation for delay. This is sometimes called demurrage.

Haldeman v. *Beckwith*, 4 McLean 290.
Williamson v. *Barrett*, 13 How. 320.
N. H. St. Bt. & W. Co. v. *Vanderbilt*, 16 Conn. 420.
The Gazelle, 2 Wm. Rob. Ad. 283.
The Apollon, 9 Wheat 378.
The Cayuga, 2 Ben. 127.
The Cayuga, 7 Blach. C. C. R. 390.
The Cayuga, 14 Wall. 278.
The Rhode Island, 2 Blach. C. C. R. 113–114.
The Transit, 4 Ben. 140--141.
The Emelie, 4 Ben. 236--237.
The Betsey Carnes, 2 Hazz. 29–30.

In *Haldeman* v. *Beckwith* it is stated to be damages for "lost time in the use of the boat." 4 *McLean* 296.

In the case of *Williamson* v. *Barrett*, 13 *How.* 110, it is said to be "for the use of the boat during the time necessary to make repairs and fit her for business." 13 *How.* 113.

It is sometimes said to be "what the boat ought to have made except for the injury," but when the case is thus stated it is necessary that the money to be paid for insurance, and the money paid to repair for ordinary wear and tear must be taken from the gross receipts. Net profits of a boat can never be made up without deducting from the gross receipts, with the other expenses, the insurance money paid for the security of the vessel, and the ordinary breakage and wear and tear of the boat. This is so simple and so plain, so universally understood, that it would seem useless to elaborate it. I think the learned judge felt that he might have erred here, for he expressly directed the clerk to file the request for an amendment of the finding, and adopts and refers to the report as to the manner in which this damage for delay was ascertained.

This damage is sometimes spoken of as "demurrage."

The Apollon, 9 Wheat. 378.

But demurrage is compensation for delay of the vessel,—that is its definition.

The Apollon, 9 Wheat. 378.
1 *Bouvier's Law Dictionary*, 456.
Webster's Unabridged Dictionary.

But in all the cases where this item is allowed, great care is used to exclude the elements of profits. See the following, among other cases.

The Apollon, 9 Wheat. 378.
Smith v. *Cowdry*, 1 How. 35.
Willamson v. *Barrett*, 13 How. 111, 113.
The Amiable Nancy, 3 Wheat. 560.
La Amistad de Rucs, 5 Wheat. 389.
Blanchard v. *Ely*, 21 Wend. 345.
The Granite State, 3 Wall. 314.
The Gazelle, Lush. Ad. Rep. 576.
The Cayuga, 2 Ben. 127.
The Same, 7 Blatch. C. C. R. 390.
The Same, 14 Wall. 278.
The Rhode Island, 2 Blatch. C. C. R. 113, 114.
The Transit, 4 Ben. 140, 141.
The Emelie, 4 Ben. 236, 237.

The same is true as to the earnings of the vessel.

Blanchard v. *Ely*, 21 Wend. 345.

In this Court, great care has been taken to exclude from the estimation of the jury any elements of the kind.

In the case of the *Apollon*, the Court say:

"In truth, demurrage is merely an allowance or compen-

sation for the delay or detention of a vessel. It is often a matter of contract, but not necessarily so. The very circumstance that, in ordinary commercial voyages, a particular sum is deemed by the parties a fair compensation for delays, is the very reason why it is, and ought to be, adopted as a measure of compensation, in cases *ex delicto*. What fairer rule can be adopted, than that which founds itself upon mercantile usage as to indemnity, and fixes a recompense upon the deliberate consideration of all the circumstances attending the usual earnings and expenditures in common voyages? It appears to us, that an allowance by way of demurrage, is the true measure of damage in all cases of mere detention, for that allowance has reference to the ship's expenses, wear and tear, and common employment. Every other mode of adjusting compensation, would be merely speculative, and liable to the greatest uncertainties." 9 *Wheat.* 378.

In making up the demurrage or the loss by delay, the item of wear and tear, which the boat must undergo if run, is here expressly alluded to,—"for that allowance has reference to the ship's expenses, wear and tear, and common employment."

The case of *Cowdry* v. *Smith*, was one where a vessel loaded with salt was ready to sail from Liverpool to Baltimore, when injured by another vessel and delayed thereby. The price of salt fell between the time when the vessel would have arrived, except for the collision, and the time when she did arrive; this difference in the price of the salt, was claimed as a direct result of the collision, and hence recoverable. The Circuit Court excluded this item of damage and the case was therefore brought to this Court. CH. J. TANEY delivered the opinion of this Court, from which I take the following:

"It has been repeatedly decided in cases of insurance, that the insured cannot recover for loss of probable profits at the port of destination, and that the value of the goods at the place of shipment is the measure of compensation; there can be no good reason for establishing a different rule in cases of loss by collision; it is the actual damage sustained by the party at the time and place of the injury, that is the measure of damages." 1 *How.* 35.

The case of *Williamson* v. *Barrett*, was a collision case, and damage for lost time was allowed by the Circuit Court, and that allowance was approved by a divided Court here. In that case the damages were not ascertained by any reference to the profits. In the case MR. JUSTICE CATRON delivered a dissenting opinion, which was concurred in by CH. J. TANEY and MR. JUSTICE DANIELS. The Court below permitted recovery "for the use of the boat during the time necessary to make the repairs and fit her for business."

This damage was not made up from the profits, but by putting before the jury the age and value of the boat, her fair charter value, the party chartering paying insurance and for repairs, and facts of that character. The minority of the Court in the opinion delivered by MR. JUSTICE CATRON, say:

"The expression, 'for her use,' must mean either the clear profits of her probable earnings, or how much she could have been hired for to others during the time of her detention. Both propositions came to the same result, to-wit: how much clear gain the owners of the Major Barbour could have probably made by their boat, had she not been injured during the time she was detained in consequence of being injured."

* * * * * * * *

"In cases of marine torts, no damage can be allowed for loss of market, nor for the probable profits of the voyage, the rule being too uncertain in its nature to entitle it to judicial sanction; such has been the settled doctrine of this Court for more than than thirty years." 13 How. 113.

In the above case, the item was ascertained in a proper way, and not as in this case, as I shall more fully show further on. The cases of the *Amiable Nancy*, 3 *Wheat.* 560, and that of *La Amistad de Rues*, 5 *Wheat.* 389, all consideration of profits was carefully excluded.

In the case of the *Gazelle*, the court allowed interest for the time of delay upon the value of the vessel. *Lush. Ad. Rep.* 576.

In the case of *Blanchard* v. *Ely*, the suit was to recover

the price for the building a steamboat for the defendant. The defence presented a sum by way of recoupment for delay of trips, resulting from a breach of the contract, and proved that the trips could be performed for $100. net profit; the Court charged that the jury, that they;

"Were not authorized to take into consideration the delay of the boat, the loss of the trips, or loss of profits consequent upon any defect of the boat or machinery in reducing the amount of the plaintiff's recovery and the damages sustained by the defendants from these causes, being too remote and consequential to be allowed.

The judgment was reversed upon other grounds, but the Court say:

"To go the length insisted upon by the defendants, would, I apprehend, transgress what the law would allow, even had the plaintiff, without fraud, tortiously broken the machinery of this boat by collision in navigating his own boat. The profits of a voyage broken up are constantly denied consideration even to questions relating to marine trespasses." 21 *Wend. pp.* 344 *and* 349.

In the case of *Hurd* v. *Burnhardt*, the Court below charged the jury that the damages for delay was what the property was worth *to the plaintiff* during the time he was deprived of its use. The Supreme Court reversed the judgment, saying:

"This was substituting a speculative and peculiar measure of damages for the true rule, which as applied to the case, was what the use of said property, in other words, the market value, and was erroneous." 53 *Cal. p.* 99.

In *N. Y. Guarantee Co.* v. *Flyn*, it was held, that in the absence of special circumstances, the damages for the detention of personal property, was the interest on its value. 55 *N. Y. R.* 653. This is the rule adopted in *The Gazelle*, *Lush. Ad. Rep.* 576. The demurrage allowed in that case was ascertained in the same way.

In the cases of *The Transit and The Emilie* for the delay of a pilot boat during repairs, the Court, in the absence of a charter value, ascertained this value by experts, and held that it must be strictly confined to "the value of the use of the pilot boat as a vessel; what, without pilots, or crew, or stores being furnished with her, she could have been chartered for to others to use as a pilot boat." 4 *Ben. Ad. Rep.* 236, 140, 141.

The case of the *Cayuga*, as decided in the District Court of New York, 2 *Ben.* 125, in the Circuit Court, 7 *Blatch.* 389, and in this Court, 14 *Wall.* 278, is to the same effect; and as a charter value could not there be proven, the demurrage was established by the testimony of experts acquainted with such vessels, their value and business. Profits or average profit, was not allowed nor sought for. In the case of *The Granite State*, there being difficulty of ascertaining this item, the Court, after these references, confined the damages to what it would cost to put the barge in repair. 3 *Wall* 314.

In that case the Court says:

"A person may make considerable profits by the use of an old hulk of little value in the market for vessels. His loss cannot be measured by the ratio of her profits, as he might supply himself with another at a much cheaper rate. But when the injured vessel is not a total loss, and is capable of being repaired and restored to her original situation, the cost necessary to such repairs, cannot be said to be an incorrect rule of damages." 3 *Wall.* 34.

In the case of *The Rhode Island* MR. JUSTICE NELSON discusses this matter and makes a clear distinction between the loss of profits, or the assessing the damages upon the loss of profits and the fair value for the use of the boat. 2 *Blatch. C. C. R.* 114, 115.

He was one of the judges who decided *Haldeman* v. *Beckwith* and one of the majority in *Williamson* v. *Barrett*, hereafter more particularly referred to.

The Court, in its finding, gives the following reason for adopting the estimated profits as the amount of the demurrage.

The respondents objected to the allowance of estimated profits. The reason for following such profits instead of charter value of the steamer during the time of her detention was, that, being engaged in a regular established line and being peculiarly fitted for that line, her charter value could not be satisfactorily ascertained, and other vessels which could be procured to supply her place were not equally fitted for the service." *Pr. Rec. p.* 442.

This case was not, I think, peculiar in this respect. Boating on the Western rivers for years has been divided into lines of this character,—the Cincinnati and Huntington Line, the Cincinnati and Louisville Line, the Saint Louis and Keokuk Line, the New Orleans, Vicksburg, Greenville and Memphis Lines, all having large and fine boats. These are matters of such general and public notoriety that the Judges of the United States Courts practicing in these regions will take notice of such general and notorious facts, and I submit that the fact stated is not a reason for resorting to speculative damages, such as estimated profits; that the facts stated do not prevent the proof of the amount of a fair demurrage by men of experience, familiar with such boats and such business, and that the latter mode is the established mode of making such proof, and that it is more reliable than the estimated profits; that the value of the use of such a vessel, wear and tear and insurance considered, can be estimated with reasonable certainty by those familiar with such boats and business. Such was the course taken in *The Cayuga*, *The Transit*, *The Emelie*, *Washburn* v. *Hurd*, and other cases cited. The fair charter value would no doubt be one fact to be considered, but not the ultimate fact fixing the demurrage unless the party chartering kept the boat insured and in repair.

In the case of *Washburne* v. *Hubbard*, the Court refuse

all profits and ascertain the damages by "the judgment of men whose knowledge and experience in the same or like matters enables them to form a judgment on the subject. 6 *Langs.* 14. And that is the rule that should have been adopted in this case, for it is idle to say that such men as John W. Cannon, Captain T. P. Leathers, Captain John W. Tobin, Captain Stut. Neal, and others no doubt known to some of the members of the Court, could not have given competent evidence of this value during the delay.

In *Gilbert* v. *Kenedy*, the Supreme Court of Michigan held, where there was no special rule applicable to the case, that all the facts and circumstances properly provable should be presented to the tribunal finding such damage, from which the damage resulting from the delay should be ascertained. Certainly, the fact that such boats are ordinarily insured at heavy expense, and that in running there is necessarily a large wear and tear, must be taken into the account before the profits even can be ascertained. The idea of ascertaining the profits of these lost trips by the average of twenty-six other trips made during the season, from which the very large amount of insurance money paid for the security of the boat and the wear and tear, are excluded, can not be found, suggested even in any case, nor practiced by practical, prudent boatmen. It is the same as endeavoring to make up the net income from property without deducting from the receipts the money paid for insurance and for repairs. That such a rule of estimating the net profits even of a boat, or a house, or store, would be erroneous, is, it seems to me, quite evident.

So that if the average profits of other trips are to be regarded in making up this item of demurrage or loss for delay, they should be found in the usual way, and from the gross receipts all the usual and ordinary charges and losses due to such business deducted, which rule was disregarded by the Circuit Court.

Other cases might be referred to, to show how careful the Courts have been to exclude all questions of profits.

I think a search will be made in vain for any case where the damages were ascertained in the way they were in this case.

Second. I have stated that this item of damage had been much controverted.

In the case of *Haldeman* v. *Beckwith*, the item for lost time came before this Court at its December term, 1849. Judge Timothy Walker, the author of American Law, who then stood, if not at the head of the Cincinnati bar, certainly among the very first members thereof, and the Hon. Pierre Soule', then Senator of the United States and a very distinguished lawyer from Louisiana, presented that question and maintained that JUDGE MCLEAN had erred in permitting that item to go before the jury. The proof below was of the age, cost and value of the Yorktown and what she could be chartered for, the party chartering her keeping her insured and in repair—proof indeed like that of the value of the use of a store of which the owner has been wrongfully deprived —by those familiar with the property and its uses and with rents of like property.

I know that the above was the character of the evidence by which the item was proven and that there was no proof of profits or average profits, as I prepared the case and tried it in the Circuit Court, and argued it in this Court in favor of the admissability of this item of damages. There was a question in that case relating to the exclusive power of Congress over commerce among the States. MR. JUSTICE MCKINLEY was not on the bench at the time, and but eight judges took part in the decision of this Court. These judges were equally divided upon the constitutional question, and the judgment was affirmed by a divided Court. No opinion was given, it not being usual to give any where the Court is equally divided, and the case is not therefore reported among the decisions of this Court. See 4 *McLean* 298, 299.

At the time this decision was made, the case of *William-*

son v. *Barrett* was pending here. This same item had been allowed and proved, as in *Haldeman* v. *Beckwith*, and in that case, as before stated, this Court was divided upon this item. I speak with knowledge, for I also prepared that case and argued it in the Circuit Court and here.

In the argument of the case a distinction was sought to be made between it and *Haldeman* v. *Beckwith*, upon the ground that in the latter named case that item was specially set out and claimed, whereas in *Williamson* v. *Barrett* no reference was made to it whatsoever in the declaration. I maintained that it was special damages and could not be recovered unless averred in the declaration, as it was in *Haldeman* v. *Beckwith*.

The majority of the Court did not regard this distinction as sound, though the minority seem to have had it in mind. In a late case in Massachusetts, such a distinction was held to be good, *Hunter* v. *Farren*, 127 Mass. 484, 485; see also *Luse* v. *Jones*, 39 N. J. L. 707.

I have referred to this point somewhat at large to show that though the item for delay is now generally recoverable, yet that the Courts have been careful to exclude from the estimation of damages the profits or average profits as a rule for estimating such damage. Though a boat may have made some profit on twenty-five out of twenty-six trips, it does not by any means follow that it would have made anything upon the three trips lost, or that the vessel might not have suffered disaster and been lost or greatly injured, or that there would not have been such loss, as that there would have been no average profits of the whole season's business had she made these three trips.

See also upon this point *The Rhode Island*, 2 *Blatch. C. C. R.* 114, 115.

But the complaint is, that this item of delay was not ascertained in a proper way and that error to the prejudice of the appellants entered into the decree in this regard. Even

if these profits, or average profits, when properly made up, might be proper evidence to be considered in the case with other evidence, they could not be assumed as the fair equivalent of demurrage or damage for lost time, where any other mode of ascertaining this value could be resorted to. Very many authorities might be cited to this effect, but I forbear, as I do not know of any case to support the action of the Court in its finding and holding upon this point.

I desire, however, that the Court should examine JUDGE NELSON'S opinion in the case of *The Rhode Island*. He there refers approvingly to the case of *Blanchard* v. *Ely*, and draws a clear distinction between the profits of a boat which the owner assumes and the expense of procuring another one in her place. Among other things he says:

"I do not intend, however, to determine how far the Court would feel itself justified where another vessel had been actually employed, in allowing the sum paid for her hire. There are difficulties attending the question which should lead to caution and hesitation in the adoption of that sum as the measure of compensation." 2 *Blatch. C. C. R.* 115.

I submit that the cases show that the courts have generally, if not uniformly, exercised that caution in excluding the profits, or average profits, of a boat as the basis of a recovery in such cases.

Third. This item for delay is found by the Circuit Court in this language:

"Demurrage allowed for loss of three trips in her established trade, being the profits which, according to the average of her whole season, she would have realized in said trips $7,173.48." *Rec. p.* 441.

I submit that demurrage is not found in that way, as the authorities before referred to show.

In this respect I desire that the Court should understand

how this claim was in fact made, and how this finding was entered.

I was informed that when the case was submitted, MR. JUSTICE BRADLEY took the papers with him on the Circuit, and after the adjournment of the Court forwarded the finding to the clerk for entry. Before it was entered, and immediately upon its arrival, (it could not then be entered until the next term of the Court,) the counsel for appellants requested the Court to make two amendments thereto, the one relating to the insurance money assigned, and the other to the mode of making up the damages, or this demurrage. Such application was necessarily by letter, as the learned judge had left and the term was adjourned. The one of those amendments the Court adopted, and the other it disallowed, upon the express ground that the report of the commission would show how the demurrage was made up. But the Court directed that the amendment be filed if requested. *See Pr. Rec., pp.* 347, 348. The papers of the case were not then with the learned judge, or he would, I think, have allowed the other amendment.

And on page 449 of the printed record, the Court expressly state the reason why they do not allow this amendment, to-wit: "inasmuch as the record of the proceedings will show all that is asked for here to be found," and the learned judge again request that as to this amendment and amendment C they be filed in the case. *Pr. Rec. pp.* 449, 450.

Here the finding by the commissioner is referred to as to the way in which this demurrage was made up and the average profits were ascertained.

The report of the Commissioner is found on pages 354 to 413. Here the details of the profits upon which the demurrage, so called, was based are found, and it there appears that there was nothing deducted from the gross receipts for insurance money nor for repairs of wear and tear in making up these profits.

With this report, and to show how it is made up, the

Commissioner files the testimony of the clerk of the boat, the only evidence upon the subject, who made up these trip profits, and in reference thereto he states:

Ques. "You make no calculation as to wear and tear of the boat?

Ans. No sir.

Ques. What does a boat decrease by wear and tear?

Ans. I cannot tell. I do not know.

Ques. At the end of the season, does it not require a large amount of repairs?

Ans. Yes sir, it takes a large amount of money for repairs.

Ques. How much did you pay that season for repairs, the season of 1871?

Ans. The summer of 1871? I cannot state without referring to the books.

Ques. Will you furnish a statement of that also?

Ans. Yes sir, two years ago we spent over $30,000 at St. Louis to repair the Lee, and this year as we have no docking to do, it will not cost over $12,000.

Ques. Boats need repairs every year?

Ans. Yes sir.

Ques. That, then, is to be deducted at the end of the season?

Ans. Yes sir.

Ques. In these expenses, is the insurance included?

Ans. The insurance expense is not included in the trip statement at all.

Ques. What was the insurance on the Lee at that time?

Ans. I cannot state positively, but about $50,000; the insurance premium was 10 per cent. I believe that is what they charge in Cincinnati.

Ques. That is not included then and no calculation is made of it on these vouchers?

Ans. No sir." *Pr. Rec., p.* 395.

See statement of the various trips made by the Lee that season, pp. 399 *to* 410.

The rate and amount of insurance appear in the finding. Much more of this is expressly found, but it is information

so well and generally known, that western steamboats require large repairs yearly, for painting, injury to carpets, furniture, bedding, rigging and breakage, and from the general shaking of the boat in her forced motion through the water that the Court will take notice of that general fact, whether found or not. But this deposition of Mossop, the clerk of the boat, is returned, filed with and referred to in the Commissioner's report as to the details and in explanation thereof, and it, and the record connected therewith, is expressly referred to, by the finding of the Circuit Court.

I think the Associate Justice, who was applied to for these amendments, refused at least one of them for the reason that h had not the papers of the case with him, and he did not t them necessary. He says so, but at the same time feel that he may have erred therein, he directed that they be fi and in his finding refers to the Commissioner's report and to the papers accompanying the same, that this question might be left open and free for further examination here.

The report of the Commissioner was founded upon the statement of the clerk of the boat. There was no other evidence of that point as to the profits of the various trips the boat had made during that season, from which all insurance money to be paid and all expense of wear and tear were excluded. This statement and evidence of the clerk is filed with report of the Commissioner. The trip statement shows that neither of these items was taken from the gross receipts in making up these average profits. *Printed Record, pages* 399 *to* 410.

The basis, therefore, upon which this item of demurrage or lost time was [illegible], was not a fair and true basis by which to ascertain this lost time or demurrage.

We, therefore, claim that error to the prejudice of the appellant is found in the decree of the Circuit Court: *First*, in not allowing anything to be deducted from the damages to the Lee on account of the insurance money paid her and

the assignment of their rights relating thereto to the appellants, and in wholly disregarding the clause in the policy of insurance expressly giving the insured, upon the payment of a loss or a part thereof, a proportionate interest therein; and *Second*, in the manner in which the damages to the Lee resulting from delay were ascertained.

All of which is respectfully submitted.

T. D. LINCOLN,
Of Counsel for Appellants.

U.S. SUPREME COURT
FILED
OCT 29 1881
JAMES H. McKENNEY, Clerk.

Supreme Court of the United States.

No. 222.

STEAMER POTOMAC, ETC.,

JAMES W. BATCHELOR, ET ALS., CLAIMANTS AND APPELLANTS.

VS.

JOHN W. CANNON.

BENTINCK EGAN,
Attorney for John W. Cannon.

Clark & Stafford, Brief Printers, 112 Nassau Street.

Supreme Court of the United States.

No. 222.

STEAMER POTOMAC, ETC.,

JAMES W. BATCHELOR, ET ALS., CLAIMANTS AND APPELLANTS.

VS.

JOHN W. CANNON.

STATEMENT OF THE CASE.

This is a suit for damages resulting from a collision which took place between the steamer R. E. Lee, belonging to the libellant, and the steamer Potomac belonging to claimants, on the night of the 21st December, 1870, a little over three quarters of a mile above the wharf boat at Natchez, Mississippi, the steamer R. E. Lee being at the time bound on a voyage from New Orleans to Vicksburg, and the steamer Potomac being bound on a voyage from Cincinnati, Ohio to New Orleans.

THE FACTS

As those have been found by the Court under the act of February 16, 1875, (18 Statutes at large, 315), are now held to be conclusive—see The Abbotsford, 98 U. S., p. 440. We propose to give them as they were found by the Court, together with the conclusions of law. They are: that the steamer R. E. Lee, a large vessel of more than 900 tons burden, belonging to the libellant,

John W. Cannon, left New Orleans at about 5 P. M., on the evening of Tuesday, 20th day of December, 1870, with a number of passengers and some freight, bound on one of her regular weekly trips on a voyage to Vicksburg, Mississippi, and intermediate landings; that she arrived at the wharf boat at Natchez, Mississippi, shortly after ten o'clock at night on the 21st of December, 1870, and left a few minutes before 12 o'clock the same night; and after straightening up in the river was proceeding up the Natchez or Mississippi side, at about one-third of the river out from that bank, leaving about two-thirds of the river to her left; and when about the distance of three-fourths of a mile to a mile above the stationary wharf boat at Natchez, a collision occurred between her and the Potomac, belonging to the claimants, which was at that time bound on a voyage down the river from Cincinnati to New Orleans, loaded with freight and passengers. The Potomac was a large steamboat, of 500 tons burden, and was at the time loaded down so deeply in the water that her guards were considerably lower than those of the R. E. Lee, and when the two vessels came together, said guards were under those of the Lee.

Both vessels just before the collision were following the general direction of the channel, the Lee going up the river, and the Potomac coming down, and both of them were on the Mississippi or easterly side of the channel, and they approached each other nearly head on.

Neither boat gave any signal that was heard on the other until just before the collision, too late to avoid it, and when they were within three or four hundred feet of

each other, and neither boat gave any signal to indicate the way she would pass the other until they were much less than 800 yards apart; before striking, the Lee ported her helm and the Potomac starboarded hers, (at the same time giving the signals corresponding to such action) thus both turning towards the Mississippi shore, and whilst so doing they struck each other at an angle of about 45 degrees, the stem of the Potomac striking the R. E. Lee on her larboard bow, a few feet back of her stem, and penetrating to her kelson, breaking her planking and timbers on the starboard side; at the same time the stem of the Potomac was badly mashed, and the guards of the R. E. Lee broke down her apron and jackpole. Both boats were much damaged, and the R. E. Lee after getting free, went across the river to the bar on the west side, and sank in 9 feet of water; she was afterwards gotten up and taken to New Orleans, surveyed and repaired, being subject to a detention of three weeks, and losing three regular trips. The Potomac did not sink but kept on her way to the landing at Natchez, and after remaining there some hours, stopping her leak as well as possible, she was taken to New Orleans and repaired, being subject to a detention of 15 days.

The aforesaid collision occurred a few minutes after 12 o'clock at night; there was no moon, but the vessels could easily see each other by their lights at a distance of a mile and a half.

Going up the river from Natchez, there is a bend to the left or west making a curve, the apex of which following the middle of the channel, is about two miles

above the landing. The river widens at this place, and on the westerly side, along the interior of the curve, a shoal puts out commencing a short distance (about one-third of a mile) above the landing. The channel passes along the east side of the shoal and around it, on the north side, being about four hundred yards wide. Upward bound vessels generally keep along this shoal, as there is less current there to contend against, and downward bound vessels keep to the bend on the Mississippi side to have the benefit of the current. But vessels of large size going up the river, cannot approach very near the shoal without being subject to sheering and disobeying their helms. The proper place at this point for such a vessel going up the river and not stopping at Natchez, is to keep to the left or west of the center of the channel, and in coming down, to keep to the east of the center of the channel. When an upward bound vessel stops at Natchez, on leaving the landing there she properly keeps up the river on the east side a short distance before passing over to the other side.

The Court does not find that the R. E. Lee was in fault in being found on the east side of the channel at the time of the collision, as she had yet proceeded but a short distance above the landing. The Potomac was not in fault for being on that side, it was the proper side for her to be.

By the rules and regulations for the government of pilots of steamers navigating the rivers flowing into the Gulf of Mexico and their tributaries, adopted by the Board of Supervising Inspectors, January 29th, 1869,

under the acts of Congress in that behalf, the following rules among others are laid down :

Rule I. When steamers are approaching each other, the signals for passing shall be one sound of the steam whistle to keep to the right, and two sounds of the whistle to keep to the left; these signals to be made first by the ascending steamer. If the dangers of navigation, darkness of the night, narrowness of the channel, or any other cause renders it necessary for the descending boat to take the other side, she can do so by making the necessary signals, and the ascending steamer must govern herself accordingly. These signals to be observed by all steamers, either day or night

Rule II. Should steamers be likely to pass each other, and these signals should not be made and answered by the time such boats shall have arrived at the distance of eight hundred yards from each other, the engines of both boats shall be stopped; or should the signals be given and not properly understood from any cause whatever, both boats shall be backed until their headway shall be fully checked; and the engines shall not be again started ahead until the proper signals are made, answered and understood. Doubts or fears of misunderstanding signals shall be expressed by several short sounds of the whistle in quick succession.

The Court finds that both boats were in fault for not obeying these regulations, and that this was the cause of the collision.

Neither vessel gave the proper signals in proper time, nor obeyed the directions to stop and back, until they

were much nearer to each other than 800 yards; the Court concluded from the whole evidence that neither vessel commenced to stop and back until they were within 400 yards of each other; had they given signals and taken the other precautions in time, the collision would not have occurred.

The respective damage sustained by the two vessels as found by the commissioner to whom the matter was referred, and with whose report (quoting the report which we have omitted), the Court is satisfied, was as follows:

The actual damage to the Lee, being the necessary cost of her repairs was - - -	$12,237 79
Demurrage allowed for loss of three trips in her established trade, being the profits which, according to average of her whole business for the season, she would have realized on said trips - -	7,173 48
Total damage - - - -	$19,411 27

Nineteen thousand four hundred and eleven dollars and twenty-seven cents.

The respondents objected to estimated profits. The reason for allowing such profits instead of charter value of the steamer during the time of her detention, was that being engaged in a regular established line and being peculiarly fitted for that line, her charter value could not be satisfactorily ascertained, and other vessels which could be procured to supply her place, were not equally fitted for the service.

The actual damage to the Potomac being necessary cost of her repairs, was - - -	$ 5,480 52
Demurrage allowed for 15 days at $100 per day, (her charter value) - -	1,500 00
Demurrage of her barge, 15 days, at $10 per day, (charter value) - - -	150 00
Demurrage for half day at Natchez -	200 00
Total damage - -	$ 7,330 52

Seven thousand three hundred and thirty dollars and fifty-two cents.

R. E. Lee being - -	19,411 27
And the total damage to the Potomac being	7,330 52
And the total damage to both steamboats being - - - -	$ 26,741 79

To-wit, twenty-six thousand seven hundred and forty-one dollars and seventy-nine cents. The Court finds from the foregoing facts, as matter of law, that each vessel or her owners must bear one-half of this amount, and since the R. E. Lae sustained a greater amount of damage than the Potomac, by the sum of twelve thousand and eighty dollars and seventy-five cents, the respondents must pay the libellant one–half of that difference, to-wit, the sum of six thousand and forty dollars and thirty-seven cents.

At the time of the collision aforesaid the R. E. Lee was under insurance, for various amounts in certain insurance companies of Cincinnati, against perils of the sea, river risks, and fire, whether the loss were caused by

negligence or unavoidable accident; and said companies paid the libellant in the aggregate, the sum of seven thousand twenty-nine dollars and fifty–two cents, ($7,429.52), as and for the loss and damage sustained by the R. E. Lee, by said collision as stated in the amended answer and cross-libel. This amount was arrived at by assuming the damage to the Robert E. Lee, at $14,347.34, which includes over $2000 for wages and expenses whilst the steamer was detained instead of profits lost. From this sum was deducted one-third of the repairs new for old, amounting to $3,203.06, leaving a balance of $11,–144.28; the insured was then charged one–third of this balance as his portion of the risk assumed not covered by insurance, amounting to $3,714.76. This left a final final balance of $7,429.52, which was paid by insurance companies as above stated.

After the libel was filed in this cause in the Court below, the said insurance companies executed to the owners of the steamer Potomac (the respondents) a release and assignment in the following terms:

Whereas, heretofore, to-wit, on the 21st day of December, 1870, the steamer R. E. Lee, bound up, came in collision with the steamer Potomac, bound down, at a point about one mile above the city of Natchez, Mississippi, during the night; and whereas the undersigned were insurers of the Robt. E. Lee in the amounts hereinafter named, and have recognized the loss and paid the sums thereon which are set opposite the amount by them so insured to the owners of the Robt. E. Lee at the time; and whereas they are informed that suit has been brought

by John W. Cannon, as owner of the Robt. E. Lee, in the District Court of the United States for the District of Louisiana, against the steamer "Potomac," her boats, apparel, tackle and furniture, and against all persons intervening for their interest therein, and against J. N. Shenck, Captain of said steamer "Potomac," in a cause of collision, civil and maritime; and whereas the undersigned desire no suit brought for or on their account and have never authorized the bringing of any, and have given the said Cannon no authority to prosecute said suit so far as their interests are concerned. Now this is to witness that in consideration of the premises and one dollar, and other good and valuable considerations to each of the undersigned moving, they do, each company for itself, release, discharge and set over to the owners of said steamer "Potomac" and to said Shenck, any and all right which they have in and to any damage, or claim of damage, (if any there be) whether legal or equitable, growing out of said collision, and authorize them to use the same by way of defence, or otherwise in and to the said suit.

Which paper was duly signed and executed by the several insurance companies who had paid to the libellant the insurance money before mentioned, and was delivered to the respondents, the respective amounts paid by each company being written opposite their several and respective signatures.

There was no proof that said insurance companies ever authorized this suit to be brought, or that the respondents gave any consideration for the said release and

assignment. The respondents however insist that the amount of insurance so received by libellant and so acquitted and set over to them should be deducted from the libellant's damage, before bringing them into account with them.

And afterwards, on further consideration, and upon request of the counsel for respondents, the Court being fully advised in the premises, finds in addition to the facts already found and stated, the following facts to be annexed to the original findings, viz: That the R. E. Lee, at the time of the collision was insured in sundry insurance companies at Cincinnati, (as before stated), to the amount of $50,000. fifty thousand dollars, and valued at $75,000, seventy-five thousand dollars, in the said policies; that said policies were concurrent and of the same character as the following which was a copy of one of them, and is made a part of this finding, to-wit: (See copy hereto annexed), and that under these policies, said Cannon, owner of the R. E. Lee, was paid the amount before set out in money before the filing of the libel in this case.

For the reasons expressed in the opinion delivered in this case, the Court finds as matter of law, that this claim of respondents should not be allowed.

The Court further decides, that both parties were in fault, the costs must be equally divided between, and paid by them, both in the court below and in this Court.

The Court then made the following decree, which we omit. See R. pp. 439–447.

ARGUMENT.

There are but three legal propositions involved in the decision of this case, from the facts set forth as found by the Court, and which are now conclusive under the Act of Congress, of February 16th, 1875, entitled an act to facilitate the disposition of cases in the Supreme Court of the United States, and for other purposes. 18 Statutes at Large, p. 315.

And however much we might desire to argue the whole case on its merits, we consider we are bound by that act and the decision of this Court, in the case of The Abbotsford, 98 U. S. 440.

First. The Court having found as a question of fact that there was a collision between the steamers R. E. Lee belonging to the libellant, and the Potomac belonging to the respondents; and that both boats were in fault, divided the damages.

This decision was unquestionably correct; the law is now well settled in admiralty, that where both boats are in fault for a collision, the damages must be divided. See Schooner Catherine, 17 Howard, pp. 170–177, and authorities there cited. Rodgers vs. Str. Charles, 19 Howard, 108; Cushing et als. vs. Ship John Frazier, 21 Howard, pp. 184–195.

Second. Among the items of damage sustained by the steamer Robt. E. Lee and allowed by the Court was—Demurrage allowed for loss of three trips in her established trade, being the profits which according to average of whole business for the whole season, she would have

realized on said trips $7173.48. Quoting from facts found by the Court. "The reason given by the Court for this allowance instead of charter value of the steamer during the time of her detention was, that being engaged in a regular established line and being peculiarly fitted for that line, her charter value could not be satisfactorily ascertained, and other vessels which could be procured to supply her place were not equally fitted for the service.

This ruling was clearly correct in the case of the Cayuga, 2 Benedict, 125, and 7 Blatchford, 385–390. The Court allowed $75 a day for demurrage of a ferryboat, that being the estimated value of her use, she having no charter value, and that too though her owners had another boat to take her place. This decision was affirmed by this Court. See The Cayuga, 14 Wallace, 270–278. See also Sturgis vs. Clough, 1 Wall. 269. The same principle was recognized and applied in The Gazelle, 2 W. Robinson, 279. In the case of The Betsy Cains, 2 Hagg, Admiralty, the vessel was engaged in a salvage service and was run into and thereby prevented from completing it, and the Court held that the sum she would have otherwise earned might be recovered.

Third. The Court was unquestionably right in refusing to allow the insurance money collected by libellant as a set-off to his demand for damages; the insurance companies were no parties to this suit, and there was no proof that the claimants ever gave any consideration for the claims of the insurance companies; but assuming that claimants had made such proof, the insurance companies had no claim against the libellant, and therefore

could transfer none to claimants; their claims, if any they had, were no better in the hands of the claimants than in their own hands; they had simply paid libellant their proportions of a loss they had insured him against under the terms of their contracts, and for the assumption of which libellant paid them an ample premium. Now to permit the claimants to offset the claim of the libellant with the amount he received from the insurance companies, would be in effect to recognise them as his creditors or persons having claims against him which they certainly are not, and have not. Had they been parties to this suit they could have recovered but one half of their claims, as that was all the libellant was allowed, and all that could be allowed under the well settled principles of law referred to above, and this too would have been subject to paying one half the costs of the suit as well as other expenses incident to a contested collision suit. But as they were not parties to this suit they have got nothing to release the claimants from, and their release to him is simply worthless; and as they have no claim against the libellant, they have none to transfer to claimants that he could offset libellant's judgment with.

In the case of the Propeller Monticello vs. Morrison, 17 Howard, 153–155, the Court say: The defence set up in the answer, that the libellants have received satisfaction from the insurers, cannot avail the respondent. The contract with the insurers is in the nature of a wager between third parties, with which the trespasser has no concern. The insurer does not stand in the nature of a joint trespasser, so that satisfaction accepted from him

shall be a release of others; this is a doctrine well established at common law and received in Courts of Admiralty. See Yates vs. Whyte, 4 Bing., N. C., 272; Philips on Insurance, 2163; Abbott on Shipping, p. 318, Ed. of 1850.

For these reasons we respectfully ask that the judgment of the lower Court be affirmed.

Respectfully submitted.

BENTINCK EGAN,

Attorney for John W. Cannon.

FILED
JAN 21 1882

In the Supreme Court of the United States.

OCTOBER TERM, 1881.

No. 222.

THE STEAMER POTOMAC, &c., JAMES W. BATCHELOR ET AL., CLAIMANTS, APPELLANTS,

vs.

JOHN W. CANNON.

Appeal from the Circuit Court of the United States for the Fifth Circuit and District of Louisiana.

BRIEF FOR APPELLEE.

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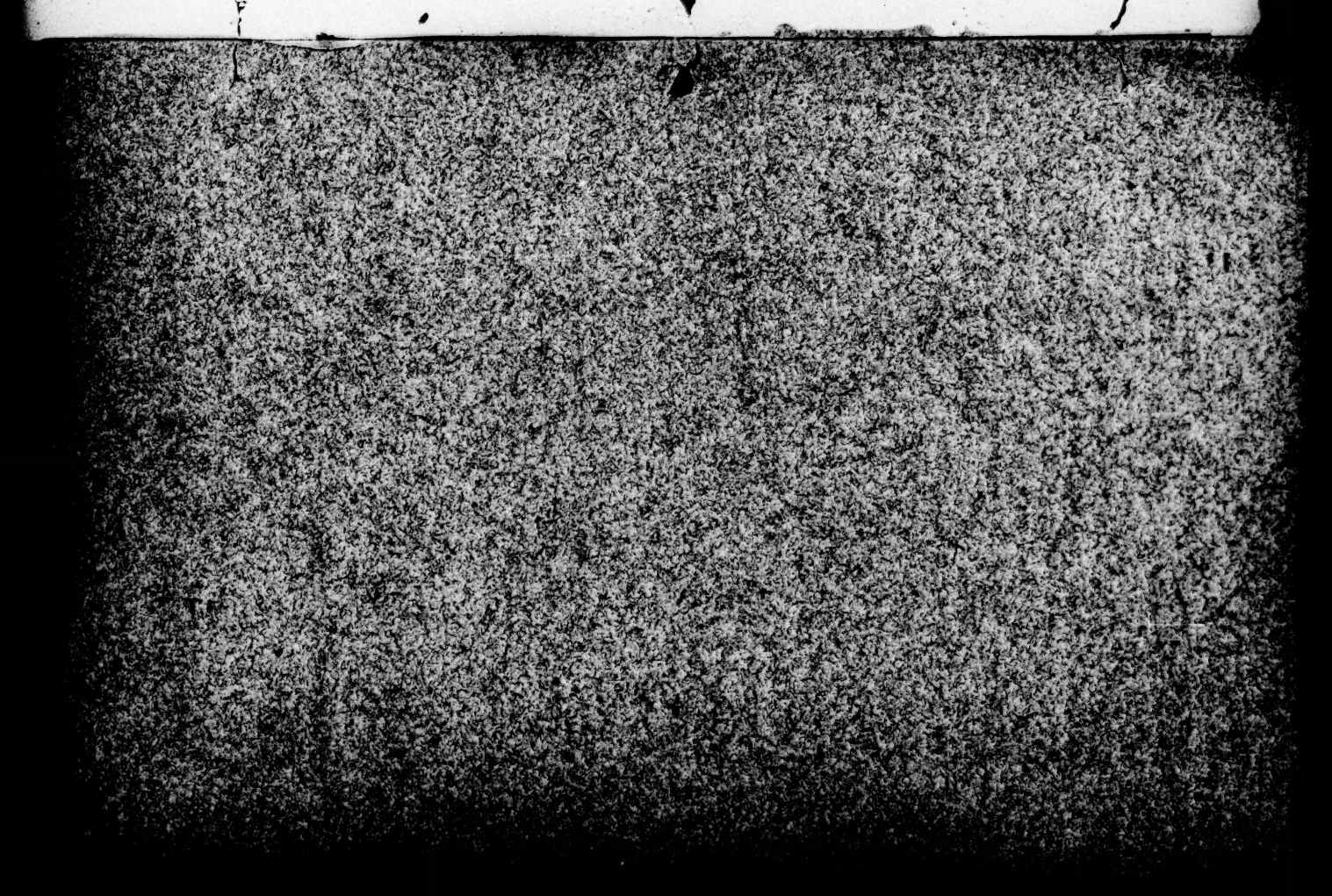

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vs.

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Appeal from the Circuit Court of the United States for the Fifth Circuit and District of Louisiana.

BRIEF FOR APPELLEE.

Statement of the Case.

The appellee filed his libel in this cause to recover damages for a collision The case cannot be better stated than by reproducing verbatim the facts and conclusions of law found by the learned Circuit Justice before whom the cause was heard in the court *a qua.* Record, pp. 439 et seq. These are as follows:

"That the steamer R. E. Lee, a large vessel of more than 900 tons burden, belonging to the libellant, John W. Cannon, left New Orleans at about 5 P. M., on the evening of Tuesday, 20th day of December, 1870, with a number of passengers and some freight, bound on one of her regular weekly trips on a voyage to Vicksburg, Mississippi, and intermediate landings; that she arrived at the wharf-boat at Natchez, Mississippi, shortly after ten o'clock at night on the 21st of December, 1870, and left there a few minutes before 12 o'clock the same night; and after straightening up in the river was proceeding up the Natchez or Mississippi side, at about one-third of the way out from that bank, leaving about two-thirds of the river to her left; and when about the distance of three-fourths of a mile to a mile above the stationary wharf-boat at Natchez, a collision occurred between her and the steamboat Potomac, belonging to the claimants, which was

at that time bound on a voyage down the river from Cincinnati to New Orleans, loaded with freight and passengers. The Potomac was a large steamboat, of 500 tons burden, and was at the time loaded down so deeply in the water that her guards were considerably lower than those of the R. E. Lee, and when the two vessels came together, said guards ran under those of the Lee.

"Both vessels just before the collision were following the general direction of the channel, the Lee going up the river, and the Potomac coming down, and both of them were on the Mississippi or easterly side of the channel, and they approached each other nearly head on.

"Neither boat gave any signal that was heard by the other until just before the collision, too late to avoid it, and when they were within three or four hundred feet of each other, and neither boat gave any signal to indicate the way she would pass the other until they were much less than 800 yards apart; before striking, the Lee ported her helm and the Potomac starboarded hers (at the same time giving the signals corresponding to such action), thus both turning towards the Mississippi shore, and whilst so doing they struck each other at an angle of about 45 degrees, the stem of the Potomac striking the R. E. Lee on her larboard bow, a few feet back of her stem, and penetrating to her keelson, breaking in her planking and timbers and bursting out the planking and timbers on the starboard side; at the same time the stem of the Potomac was badly smashed up, and the guards of the R. E. Lee bore down her apron and jackpole. Both boats were much damaged, and the R. E. Lee after getting free, went across the river to the bar on the west side, and sank on the bar in 9 feet of water; she was afterwards gotten up and taken to New Orleans, surveyed and repaired, being subjected to a detention of three weeks, and losing three regular trips. The Potomac did not sink but kept on her way to the landing at Natchez, and after staying there some hours, stopping her leak as well as possible, she was taken to New Orleans and repaired, being subjected to a detention of 15 days.

"The aforesaid collision occurred a few minutes after 12 o'clock at night; there was no moon, but the vessels could easily discern each other by their lights at a distance of a mile and a half.

"Going up the river from Natchez, there is a bend to the left or west making a curve, the apex of which following the middle of the channel, is about two miles above the landing. The river widens at this place, and on the westerly side, along the interior of the curve, a shoal puts out commencing a short distance (about one-third of a mile) above the landing. The channel passes along the east side of the shoal and around it, on the north side, being about four hundred yards wide. Upward bound vessels generally keep along this shoal, as there is less current there to contend against, and downward bound vessels keep to the bend on the Mississippi side to have the benefit of the current. But vessels of large size going up the river, cannot approach very near the shoal without being subject to sheering and disobeying their helms. The proper place at this point for such a vessel going up the river and not stopping at Natchez, is to keep to the left or west of the center of the channel, and in coming down, to keep to the west of the center of the channel. When an upward bound vessel stops at Natchez, on leaving the landing there she properly keeps up the river on the east side a short distance before passing over to the other side.

"The Court does not find that the R. E. Lee was in fault in being found on the east side of the channel at the time of the collision, as she had yet proceeded but a short distance above the landing. The Potomac was not in fault for being on that side; it was the proper side for her to be.

"By the rules and regulations for the government of pilots of steamers navigating the rivers flowing into the Gulf of Mexico and their tributaries, adopted by the Board of Supervising Inspectors, January 29th, 1869, under the acts of Congress in that behalf, the following rules, among others, are laid down:

"'RULE I. When steamers are approaching each other, the signal for passing shall be one sound of the steam whistle to keep to the right, and two sounds of the steam whistle to keep to the left; these signals to be made first by the ascending steamer. If the dangers of navigation, darkness of the night, narrowness of the channel, or any other cause renders it necessary for the descending boat to take the other side, she can do so by making the necessary signals, and the ascending steamer must govern herself accordingly. These signals to be observed by all steamers, either day or night.

"'RULE II. Should steamers be likely to pass near each other, and these signals shall not be made and answered by the time such boats shall have arrived at the distance of eight hundred yards from each other, the engines of both shall be stopped; or should the signal be given and not properly understood, from any cause whatever, both boats shall be backed until their headway shall be fully checked; and the engines shall not be again started ahead until the proper signals are made, answered and understood. Doubts or fears of misunderstanding signals shall be expressed by several short sounds of the whistle in quick succession.'

"The Court finds that both vessels were at fault for not obeying these regulations, and that this was the cause of the collision.

"Neither vessel gave the proper signals in proper time, nor obeyed the directions to stop and back, until they were much nearer to each other than 800 yards; the Court concluds from the whole evidence that neither vessel commenced to stop and back until they were within 400 yards of each other; had they given signals and taken the other precautions in time, the collision would not have occurred.

"The respective damage sustained by the two vessels as found by the Commissioner to whom the matter was referred, and with whose report (quoad the same), the Court is satisfied, was as follows:

"The actual damage to the Lee, being the necessary cost of her repairs, was	$12,237 79
Demurrage allowed for loss of three trips in her established trade, being the profits which, according to average of her whole business for the season, she would have realized on said trips	7,173 48
Total damage	$19,411 27

Nineteen thousand four hundred and eleven dollars and twenty-seven cents.

"The respondents objected to the allowance of estimated profits. The reason for allowing such profits instead of charter value of the steamer during the time of her detention, was that being engaged in a regular established line, and being peculiarly fitted for that line, her charter value could not be satisfactorily

ascertained, and other vessels which could be procured to supply her place, were not equally fitted for the service.

"The actual damage to the Potomac being necessary cost of her repairs, was ..... $ 5,480 52

Demurrage allowed for 15 days at $100 per day, (her charter value)..... 1,500 00

Demurrage of her barge, 15 days, at $10 per day, (charter value)..... 150 00

Demurrage for half day at Natchez..... 200 00

Total damage..... $ 7,330 52

Seven thousand three hundred and thirty dollars and fifty-two cents.

The total damage to the R. E. Lee being..... 19,411 27

And the total damage to the Potomac being..... 7,330 52

And the total damage to both steamboats being..... $26,741 79

To wit, twenty-six thousand seven hundred and forty-one dollars and seventy-nine cents. The Court finds from the foregoing facts, as matter of law, that each vessel or her owners must bear one-half of this amount, and since the R. E. Lee sustained a greater amount of damage than the Potomac, by the sum of twelve thousand and eighty dollars and seventy-five cents, the respondents must pay the libellant one-half of that difference, to wit, the sum of six thousand and forty dollars and thirty-seven cents.

"At the time of the collision aforesaid the R. E. Lee was under insurance, for various amounts in certain insurance companies of Cincinnati, against the perils of the sea, river risks, and fire, whether the loss were caused by negligence or unavoidable accident; and said companies paid the libellant in the aggregate, the sum of seven thousand four hundred and twenty-nine dollars and fifty-two cents, ($7,429.52), as and for the loss and damage sustained by the R. E. Lee, by said collision as stated in the amended answer and cross-libel. This amount was arrived at by assuming the damage to the Robt. E. Lee, at $14,347.34, which includes over $2,000 for wages and expenses whilst the steamer was detained instead of profits lost. From this sum was deducted one-third of the repairs new for old, amounting to $3,203.06, leaving a balance of $11,144.28; the insured was then charged one-third of this balance as his portion of the risk assumed not covered by in-

surance, amounting to $3,714.76. This left a final balance of $7,429.52, which was paid by the insurance companies as above stated.

"After the libel was filed in this cause in the court below, the said insurance companies executed to the owners of the steamer Potomac (the respondents) a release and assignment in the following terms:

"'Whereas, heretofore, to wit, on the 21st day of December, 1870, the steamer R. E. Lee, bound up, came in collision with the steamer Potomac, bound down, at a point about one mile above the city of Natchez, Mississippi, during the night; and whereas, the undersigned were insurers of the Robt. E. Lee in the amounts hereinafter named, and have recognized the loss and paid the sums thereon which are set opposite the amount by them so insured to the owners of the Robt. E Lee at the time; and whereas, they are informed that suit has been brought by John W. Cannon, as owner of the Robt. E. Lee, in the District Court of the United States for the District of Louisiana, against the steamer "Potomac," her boats, apparel, tackle and furniture, and against all persons intervening for their interest therein, and against J. N. Shunk, Captain of said steamer "Potomac" in a cause of collision, civil and maritime; and whereas, the undersigned desire no suit brought for or on their account, and have never authorized the bringing of any, and have given the said Cannon no authority to prosecute said suit so far as their interests are concerned. Now this is to witness that in consideration of the premises and one dollar, and other good and valuable considerations to each of the undersigned moving, they do, each company for itself, release, discharge and set over to the owners of said steamer "Potomac" and to said Shunk, any and all right which they have in and to any damage, or claim of damage (if any there be), whether legal or equitable, growing out of said collision, and authorize them to use the same by way of defence, or otherwise in and to the said suit.'

"Which paper was duly signed and executed by the several insurance companies who had paid to the libellant the insurance money before mentioned, and was delivered to the respondents, the respective amounts paid by each company being written opposite their several and respective signatures.

"There was no proof that said insurance companies ever authorized this suit to be brought, or that the respondents gave any consideration for the said release and assignment. The respondents, however, insist that the amount of insurance so received by libellant, and so acquitted and set over to them, should not be deducted from the libellant's damage, before bringing them into account with them.

"And afterwards, on further consideration, and upon request of the counsel for respondents, the Court being fully advised in the premises, finds in addition to the facts already found and stated, the following facts to be annexed to the original findings, viz: That the R. E. Lee, at the time of the collision was insured in sundry insurance companies at Cincinnati (as before stated), to the amount of $50,000, fifty thousand dollars, and valued at $75,000, seventy-five thousand dollars, in the said policies; that said policies were concurrent and of the same character as the following, which was a copy of one of them, and is made a part of this finding, to wit: (here follows copy of policy set out in full, and which will be found at pp. 443 to 446 of the Record,) and that under these policies, said Cannon, owner of the R. E. Lee, was paid the amount before set out in money before the filing of the libel in this cause.

"For the reasons expressed in the opinion delivered in this case, the Court finds as matter of law, that this claim of respondents should not be allowed.

"The Court further decides, that as both parties were in fault, the costs must be equally divided between, and paid by them, both in the court below and in this Court."

THE DECREE.

The foregoing findings of facts and conclusions of law were filed February 28th, 1879, *nunc pro tunc* as of date 27th May, 1878, and on the same day a decree was entered and signed by his Honor the Circuit Justice, the net result of which, in the division of damages, was to condemn the appellants to pay libellant the sum of $6040 37—pp. 446-7.

And, thereupon, the claimants to the Potomac appealed to this Court.

There are no bills of exception in the record, for the reason, it is presumed, that none were ever prepared, presented or signed.

We submit the following points and authorities on behalf of the appellee:

I.

The Act of Congress of February 16th, 1875, 18 Stat. 315, provides "that the Circuit Courts of the United States in deciding causes of admiralty and maritime jurisdiction on the instance side of the court, shall find the facts and the conclusions of law upon which it renders its judgments or decrees, and shall state the facts and conclusions of law separately * * * The review of the judgments and decrees entered upon such findings by the Supreme Court, upon appeal, shall be limited to a determination of the questions of law arising upon the record, and to such rulings of the Circuit Court excepted to at the time, as may be presented by a bill of exceptions prepared as in actions at law."

The review then is limited to—

(a.) Questions of law arising on the record, and

(b.) Rulings of the Court excepted to at the time they are made, and presented by a bill of exceptions prepared in the form used in actions at law.

Now, in the case of *The Abbotsford*, 98 U. S., 440, it was held that this term "rulings" in the second category above stated, means rulings upon questions of law.

And this doctrine is repeated in *The Benefactor*, 102 U. S. 214, and was the reason for promulgating a special admiralty rule in *The Adriatic*, 103 U. S. 730, whereby the record in causes from the instance side of the Admiralty Courts is directed to be composed only of "the pleadings, the findings of fact, and conclusions of law thereon, *the bills of exceptions*, the final judgment or decree, and such interlocutory orders and decrees as may be necessary to a proper review of the case."

In the cases of *The Abottsford* and *The Benefactor*, there were bills of exceptions, presumably taken in time and prepared in the form which is sacramental in actions at law. And in the new rule, above cited, bills of exception are catalogued as a part of the record on appeal to this Court.

We submit, then, as the plain sense of the statute, as construed by this tribunal, that this Court will review in this cause only—

(1.) Questions of law arising on the record; and

(2.) Such rulings of the Circuit Court upon *questions of law* as are presented by bill of exceptions in the well-known common law form.

But there are no such bills of exceptions in the record. At pp. 447 to 450, we find papers called "amendments" "A," "B" and "C." His Honor, Mr. Justice Bradley, then sitting as Circuit Justice, appears at pp. 448, 449, to have disallowed two of these proposed amendments, and at p. 450 it is stated by "F. B. Vinot, Deputy Clerk," that his Honor disallowed the amendment "C," and over the signature of the same deputy we find the phrase: "Reserved bill of exceptions."

It will hardly be contended that these documents, or any of them, constitute a bill of exceptions. So far as those signed by the Circuit Justice are concerned, they indicate that certain requests were disallowed and such disallowance acquiesced in. So far as the memorandum by the deputy clerk is concerned, it is certainly not a bill of exceptions.

Young vs. Martin, 8 Wall. 354.

Ins. Co. vs. Lanier, 95 U. S. 171;

And see upon this subject:

Mussina vs. Cavazos, 6 Wall. 355.

Generes vs. Bonnemer, 7 Wall. 564.

Avendano vs. Gay, 8 Wall. 376.

There being, then, no bill of exceptions in the record, the second category of matters which this Court can consider, viz: "rulings by the Circuit Court on questions of law" disappears from consideration.

There are left, therefore, as the only subject for review here such "questions of law arising on the record" as may be found outside of the findings of facts and conclusions of law signed by his Honor the Circuit Justice. We are unable to find any such, and certainly none where there is error, and have a right, we submit, to ask, at this point of the discussion, that the decree be affirmed.

II.

But if our first point be not well taken, and it be held that the errors assigned by appellants can be considered here, either as "questions of law arising on the record," or as "rulings of the Circuit Court" upon questions of law, as limited in the cases

of *The Abbotsford* and *The Benefactor*, then we beg leave to submit—

(1.) The finding that both vessels had a right to be in that part of the river where they were when the collision took place, and that neither of them gave the signals required by the rules, is final as matter of fact; and it follows by logical necessity that the conclusion is correct which finds both vessels to blame, and divides the damages. *The Stephen Morgan*, 94 U. S 599.

(2.) There was no error in the ruling of the learned Circuit Justice in refusing to allow the claimants below, appellants here, the benefit of, or to credit them with, the amount of the insurance money paid to appellee, John W. Cannon, by the Cincinnati Insurance Companies, or to permit it to be deducted from the damages of said John W. Cannon before placing the same in a division of damages.

On the contrary, the ruling was perfectly correct. Insurance is a *contract* of indemnity between the insurer and the assured, with which the person who commits a *tort* has nothing to do.

In the case of the Monticello vs. Mollison, 17 Howard, 153, 155, this Court said:

"The defence set up in the answer, that the libellants have received satisfaction from the insurers, cannot avail the respondent. The contract with the insurers is in the nature of a wager between third parties, with which the trespasser has no concern. The insurer does not stand in the relation of a joint trespasser, so that satisfaction accepted from him shall be a release of others; this is a doctrine well established at common law and received in Courts of Admiralty. See Yates vs. Whyte, 4 Bing., N. C., 272; Philips on Insurance, 2163; Abbott on Shipping, p. 318, Ed. of 1850."

In *Althof vs. Wolf*, 2 Hilton, N. Y. Common Pleas, 344, it was held, that in an action to recover damages for the death of a person killed by the carelessness of another, no deduction should be allowed for insurance effected upon the life of the deceased and collected by the widow.

In *Clark vs. The Inhabitants of Blything*, 2 Barnewall & Cress well, 254, the action was brought for certain stocks of hay and corn which had been wilfully burned in the Hundred by some person unknown. It appeared on the trial that the plaintiff had

been insured and had received the amount of his loss. He had a verdict and the verdict was sustained

In *Yates vs. Whyte*, 4 Bingham, N. C. 272, the action was brought to recover damages sustained by the plaintiff by reason of the defendant's vessel having run foul of the plaintiff's vessel, by and through the carelessness and mismanagement of the defendant. The plaintiff had a verdict. The underwriters had paid the plaintiff the sum expended in repairs, and that sum was deducted by the arbitrators to whom the matter was left, from the damages sustained by the plaintiff. This was held to be erroneous. Chief Justice TINDAL said: "If the plaintiff cannot recover, the wrongdoer pays nothing *and takes the benefit of a policy of insurance without paying the premium.*" BOSANQUET, J., said: "How could the trespassers have availed themselves of this satisfaction? Could they have pleaded it by way of accord and satisfaction? *It was not paid as a satisfaction for a trespass*; and the facts would not have supported such a plea."

Professor Laurent, of the University of Ghent, in his discussion of the obligations arising from offenses or torts under the civil law, cites decisions of the highest courts of Belgium and France, to precisely the same effect, and the fact that these decisions were rendered about the same time as that in *Monticello vs. Mollison*, shows an interesting *consensus* of juridical opinion.

The appellants at bar, however, may attempt to lay some stress on the fact that they hold the release and assignment which is set forth in the findings quoted above and at pp. 442–3 of the record. As found by the Circuit Court, p. 443, "there was no proof that the said insurance companies ever authorized this suit to be brought, or that the respondents ever gave any consideration for the said release and assignment." Moreover, as remarked by his Honor, Mr. Justice Bradley, in his opinion in the case reported in 3 Woods, 166, "it would be a little hard on the owners of the Lee that they should not be permitted to apply their insurance to that portion of their damage for which they have no redress against the other vessel."

"The result of the decree [of the District Court, which in this respect is disapproved] is to give to the owners of the Potomac the benefit of the insurance money belonging to the Lee, by deducting it from the moiety of the damage sustained by the

Lee, for which the Potomac was made liable, instead of deducting it from, or allowing it to go upon, the other moiety for which the owners of the Lee have no recourse against any person. Had the owners of the Potomac refunded this amount to the underwriters upon the claim of the latter to be subrogated to the rights of the Lee against the Potomac, it might have been different, but as I understand the evidence, the underwriters made no claim against the owners of the Potomac, but voluntarily released all demands against them, and assigned to them any supposable rights they may have had.

"I am not satisfied that this transaction entitles the owners of the Potomac to have the amount of the insurance deducted from the moiety of the damage to the Lee for which they were responsible. In my judgment, therefore, the decree should be corrected in that respect, and the owners of the Potomac should be made liable to pay one-half of the damage sustained by the Lee, without any such deduction. The decree will be drawn accordingly."

It seems clear from the decisions cited that the appellants could get by mere operation of law no benefit of the insurance money. And as so plainly shown by the learned Circuit Justice, they could get nothing by the paper signed by the underwriters, save perhaps a release from any possibility of liability to those underwriters for their tort committed in colliding with the Leé.

No one can transfer any greater right than he has. The underwriters had nothing to transfer as against John W. Cannon. As averred in the appellant's amended answer and cross libel, record, p. 9, "the said several insurance companies were bound to pay said loss to the said Cannon, whether the same was caused by the carelessness or neglect of some third person, by unavoidable accident, or by the neglect or want of care of the said Cannon, or those in his employ;" and so the Circuit Court finds, p. 442. In fulfilment of the contract the underwriters paid to Cannon—not the whole loss, by any means—for that was assumed by them to be only $14,347 34, and of this they paid a certain proportion only, amounting to $7,429 52. They paid it because they owed it. They did not pay it under duress and protest, and with right of recovery. They did not pay under mistake, or through fraud. Their obligations towards Cannon springing from the contracts

of insurance were extinguished by payment; and that was an end of the matter. They had no claim to recover the money from Cannon. They could assign no right to any one else to recover it in any form of action. Having no right of action themselves against Cannon, they gave none to appellants by the assignment so-called; and the appellants received none.

The claim by appellants to reduce the decree in favor of appellee, by reason of this insurance money, can only be allowed upon the theory that the appellants have become creditors of the appellee by virtue of the assignment. There is neither law nor equity in such a theory.

(3.) There was no error in the estimation of damages made by the Circuit Court. There can be no dispute as to the actual cost of repairs. The only question made, as we understand, is with regard to the demurrage.

The item appears in the findings of the court, as follows:

"Demurrage allowed for loss of three trips in her established trade, being the profits which, according to the average of her whole business for the season, she would have realized on said trips..... .....$7,173 48"

This is a finding of fact, so far as its amount is concerned, and under the Act of Congress and the decisions above cited, is final. It is a fact that the loss of profits by reason of the collision was $7,173 48.

If any question can be raised in this cause as to the conclusion of law reached and announced by the Circuit Court on this fact, then, we submit, that the Circuit Court was right. The Court said, p. 442:

"The reason for allowing such profits, instead of charter value of the steamer during the time of her detention was, that being engaged in a regular established line and being peculiarly fitted for that line, her charter value could not be satisfactorily ascertained, and other vessels, which could be procured to supply her place, were not equally fitted for the service."

So far as this is a finding of fact it is final, and it may be considered as settled that the Lee was engaged in a regular, established line, that she was peculiarly fitted for its business, that her charter value could not be satisfactorily ascertained, and that

other vessels which could be procured were not equally fitted for the purpose.

The conclusion that the estimated profits of the three lost trips was the proper measure of demurrage, was correct as matter of law. In *Sturgis vs. Clough*, 1 Wallace, 269, 272, it was intimated that the libellant withheld the best evidence of the amount of demurrage—namely, "the profits made by his boat, which would be found in his own books, showing his receipts and expenditures before the collision."

In the *Cayuga*, 14 Wallace, 272, the District Court awarded the ferry-boat injured by collision $75 per day for the time she was necessarily laid up for repairs, the superintendents of three leading ferries in New York harbor having expressed the opinion and the reasons of it, with an exhibition of estimates, that the boat was worth that much per day; though it was admitted by her owners that there was no fixed charter rate for ferry-boats, and it also appeared that her owners had another boat to take her place.

The case is reported in 2 Benedict, 125, and the decree was affirmed by the Circuit Court, 7 Blatchford, 389. On further appeal to this Court, the decree was again and finally affirmed, this Court saying:

"Reasonable demurrage is certainly a proper charge, as the leading maxim is *restitutio in integrum* in all suits for damages occasioned to vessels by collision. * * The owner, as the suffering party, is not limited to compensation for the immediate effects of the injury inflicted, but the claim for compensation may extend to loss of freight, necessary expenses incurred in making repairs and unavoidable detention. Tested by this rule, it is quite clear that the explanations given by the respective judges in the subordinate courts are sufficient to show that the report of the commissioner was correct."

The case at bar is stronger for appellee than the one just cited, for not only was the Lee in a regular and established line, for which she was peculiarly adapted, and where she had, naturally, built up a regular trade; not only was it impossible to ascertain her charter value satisfactorily, but other vessels could not be procured to take her place and carry the trade thus built up; and, moreover, the estimate of loss was more specific than the

Cayuga's, as will be seen from the remarks in 2 Benedict, at p. 127.

A similar rule was laid down by Lord STOWELL in the *Betsy Cains*, 2 Hagg, 29, where it was said that the vessel injured might recover as consequential damages the sum she would have earned by salvage services thus interrupted.

In the *Gazelle*, 2 Wm. Robinson, 279, which was a collision case, it was held by LUSHINGTON, that the amount of demurrage to be paid for the detention of the injured vessel during the repairs should be fixed by deducting from the gross freight whatever would, in ordinary cases, be disbursed on account of the ship's expenses in the earning of the freight, which seems to be virtually the method adopted in the case at bar by the court *a qua*.

We ask that the decree appealed from be affirmed.

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